

8

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No. 706 of 2011

Cuttack this the 23rd day of November, 2012

CORAM

THE HON'BLE SHRI A.K.PATNAIK, MEMBER (JUDL)

Sri R.Prasad Rao
Aged about 63 years,
S/o.Late R.Rama Rao,
Resident of Village/Po:Kashinagar,
District:Gajapati
Residing H/O.R.V.Pattanaik(Son),
House No. 203,
Ratna Castle,
Bhubaneswar-9,
Dist.Khurda,
Orissa,
Pin-751 009

...Applicant

By the Advocates: Mr.P.K.Padhi

-Versus-

Union of India represented through its-

1. Director General of Posts,
Dak Bhawan,
Sansad Marg,
New Delhi-110 001.
2. Director of Postal Services,
Berhampur Region,
At/Po.Berhampur,
Dist. Ganjam (O),
PIN-760001.
3. Sr. Superintendent of Post Offices,
Koraput Division,

Al

At/Po.Jeypore(K),
Dist.Koraput,
Orissa-764 001.

4. Director of Accounts, Postal,
At:Mahanadi Vihar,
Po:Naya Bazar,
Dist.Cuttack-753 004.

.... Respondents

By the Advocates: Mr.S.Barik

O R D E R (ORAL)

A.K.PATNAIK, MEMBER (JUDL):

The relief sought by the Applicant in this Original Application is as under:

“In view of the facts stated above, it is humbly prayed that the Hon’ble Tribunal may graciously be pleased to direct the Respondents to pay interest @ 18% per anum on each and every month of salary, as if the same were in GPF w.e.f. 01.12.1992 to 31.3.2004 till 12.11.2009 and further direct to pay interest on interest after 12.11.2009 to till the date of payment of interest. And further direct to pay Rs.1,23,740/- which has been paid towards Income Tax for releasing the arrear salary of 12 years in one lumpsum after 18 years;

And impose exemplary cost and compensation for harassing the Applicant for such long period and that too directing the applicant to work under his junior;

And any further order(s) as the Hon’ble Tribunal deems just and proper in the interest of justice.”

2. Respondents filed their counter objecting grant of the relief prayed for by the applicant.

3. Heard Mr.P.K.Padhi, Learned Counsel for the Applicant and Mr.S.Barik, Learned Additional Standing Counsel appearing for the

Al

10

Respondent-Department and perused the records. Applicant's contention is that for no fault of his he was kept away, despite direction of this Tribunal, upheld by the Hon'ble High Court of Orissa, from his legitimate right of salary and wages and for which he is entitled to interest on the arrear salary. In this connection, Mr. Padhi, Learned Counsel for the Applicant relied on a decision of the Principal Bench of the Tribunal dated 15th April, 1999 in OA No. 2074 of 1998 (R.C. Dahiya Vs Secretary, Inter State Council, Ministry of Home Affairs, New Delhi). The substance of the contention of the Respondents is that there was no intentional or deliberate delay in making payment of the arrears salary of the applicant but for the protracted litigations and Disciplinary Proceedings against the applicant delay was caused and, as such, the applicant is not entitled to the interest claimed by him. In fact arrear salary was calculated and paid to the Applicant on 12.11.2009. Neither in the order dated 15th September, 1998 in OA No. 473 of 1996 nor in the order dated 20.6.2002 in OA No. 271 of 2001 any direction was issued for payment of interest on the arrear salary of the applicant. The direction of the Tribunal in order dated 20.06.2002 in OA No. 271 of 2001 was as under:

“.....therefore, the department/Respondents are hereby directed to pay full salary to the Applicant and, in all fairness, to reinstate him in service. The department/Respondents should implement this order (pertaining to payment of full salary and reinstatement of

WA

the Applicant) within a period of two months from the date of receipt of a copy of this order).”

4. The above order was challenged by the Respondents before the Hon’ble High Court of Orissa in WP (C) No. 4503 of 2002/MC No.3295/2002 and vide order dated 19.12.2002 the Hon’ble High Court of Orissa stayed the operation of the order of this Tribunal dated 20.06.2002. The Writ Petition was disposed of by the Hon’ble High Court of Orissa on 03.12.2008 thereby upholding the order of this Tribunal dated 20-06-2002 in OA No. 271/2001. Thereafter, the salary for the period from 1.12.1992 to 31.3.2004 was paid to the applicant on 12.11.2009 as per the order under Annxure-A/11.

5. Even going by the contention of the Respondents/Respondent’s Counsel that since the previous orders of this Tribunal were silent with regard to payment of interest, the applicant cannot claim the same by filing successive Original Applications, I do not find any justifiable ground/reason to approve the contention of the Respondents after upholding the order of this Tribunal by the Hon’ble High Court of Orissa that the Applicant is not entitled to interest. The Applicant, for one reason or the other, had suffered for a long time and the Disciplinary Proceedings initiated against him ultimately ended with no result. In view of the above, non-payment of the salary during the above period cannot be attributable to him. Hence, he is entitled to interest @ 12% per annum on the arrears salary, after two months from


✓

12

the order of this Tribunal dated 20.06.2002 till the same was actually paid to him. Accordingly, the Respondents are hereby directed to calculate and pay the same to the Applicant within a period of 45 days hence.

6. I do not find any substance on the prayer of the applicant in so far as issuing direction to the Respondents to pay the amount paid towards Income Tax due to release of the arrear salary of 12 years in lumpsum as he can claim refund of the amount as per rule/law from the appropriate authority in appropriate forum but certainly this Tribunal lacks jurisdiction to adjudicate the said dispute.

7. Thus this OA stands allowed to the extent stated above.
There shall be no order as to costs.


(A.K. Patnaik)
Member (Judicial)