

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. No. 930 of 1996

Present : Hon'ble Mr. Justice S.N. Mallick, Vice-Chairman

Sri Amit Ghosh, s/o Late Paresh Nath
Ghosh(Ex. ITO), ordinarily resident of
BE 317, Salt Lake City, Calcutta - 64,
District - 24-Parganas(North)

..... Applicant

-vs-

1. Union of India, represented by the
Secretary, Ministry of Finance(Deptt.
of Revenue)(Income Tax), Govt. of India,
Central Sectt. Bldg., North Block, New
Delhi - 110 001 ;

(Notice to be served upon Secretary,
Ministry of Finance, Income-tax Deptt.),
New Delhi)

2. Chairman, Central Board of Direct Taxes,
Department of Revenue, Ministry of Finance,
Govt. of India, North Block, Central Secre-
tariate Building, New Delhi - 110 001 ;

3. Director(Grievance), Central Board of
Direct Taxes, Deptt. of Revenue, Direct
Taxes, Govt. of India, New Delhi - 110 001 ;

4. Chief Commissioner of Income-tax, Aaykar
Bhawan, P-7, Chowringhee Square, Cal - 69.

..... Respondents

For applicant : Mr. S.P. Bhattacharjee, counsel

For respondents : Mr. M.S. Banerjee, counsel

Heard on : 9.7.1998

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Order on : 23 -7-1998

O R D E R

S.N. Mallick, VC

In this Original Application, the applicant has prayed
for interest @ 18% per annum from 1.12.82 to 15.11.91 on the delayed
payment of family pension to him from 18 years to 21 years of his
age and also for further payment of family pension with interest
up to 25 years.

2. The case of the petitioner is that his father, an Income Tax Officer under the respondent authorities died in harness on 21.7.77 when he was a minor. He was paid such family pension through his natural guardian till he attains the age of 18 years. By change of family pension rules, he was entitled to get family pension up to the age of 21 years. This part of the family pension was paid to him after long correspondence on 15.1.91. He has claimed interest @ 18% per annum on the said amount. It is his further case that the family pension rules underwent a change and family pension was extended to the sons up to the age of 25 years. It is his case that he has been denied this benefit and such unpaid family pension for three years should be paid to him along with interest. He has also prayed for interest upon interest for the delayed payment of family pension up to the age of 21 years which was released to him only on 15.1.91.

3. The respondents have contested this application by filing a reply. According to the respondents, the application is barred by limitation u/s.21 of the Administrative Tribunals Act, 1985. On merits, it is stated that the family pension rules as they stood at the relevant time permitted family pension to be given not beyond 18 years of age. These rules were subsequently amended and the age limit for the purpose of family pension in respect of dependent sons/daughters was extended upto 21 years by the Government of India's Memo dated 29.3.78. It is further stated by the respondents that the applicant was allowed family pension till he completed 18 years of age on 1.11.82. According to the respondents, it took some time for them to sanction continuance of pension up to 21 years to the applicant, who attained 21 years on 1.11.85. It is contended by the respondents that there is no provision for payment of interest for

the delayed payment of family pension and as such, there was no question of paying the petitioner any interest on such delayed payment to which he was not legally entitled. According to the respondents, the delay was due to the failure of the petitioner in approaching the proper authority with his supporting documents.

4. Regarding the second claim of the petitioner i.e. continuance of family pension up to 25 years of age, the respondents state that the relevant Govt. of India's Memo dated 6.8.87 came into operation with effect from the said date. It was applicable to the persons who have not yet attained 21 years of age on the aforesaid date. The said Memo had no retrospective effect. The petitioner had completed 21 years of age before the aforesaid Memo dt.6.8.87 came into existence.

5. I have heard the Id. Counsel appearing for the petitioner and the respondents.

6. Mr.M.S. Banerjee, Id.Counsel appearing for the respondents has drawn our attention to the guideline No.10/^{to} Rule 54 of the CCS Pension Rules dealing with family pension. Guideline(10) to the aforesaid Rule refers to the Government Notification dated 6.8.87, which runs as follows :-

" Sons who had not crossed the age of 21 years as on 6.8.87, would continue to get family pension up to the age of 25 years. Sons who had crossed the age of 21 years as on 6.8.87, would not be entitled to the benefit of increase in age limit under the above-mentioned orders. "

It has been specified there that the cases are to be regulated in accordance with the above-mentioned guidelines(Vide Swamy's Pension Compilation incorporating CCS Pension Rules - Thirteenth Edition - Reprint 1995, pages 116 to 118).

7. Mr.S.P. Bhattacharjee, Id. Counsel appearing for the petitioner when confronted with this rule, had nothing to argue in support of the petitioner's claim in this regard. So, in view of this rule, the petitioner's claim for extended family pension up to the age of 25 years is not maintainable because admittedly he had ^{already} crossed the age of 21 years as on 6.8.87 when this notification came into force.

8. Now coming to the petitioner's claim for interest on the delayed payment of family pension after he had crossed 18 years up to the age of 21 years, Mr.Bhattacharjee has not been able to convince this Tribunal that the petitioner is entitled to get such interest. He has referred to a number of decisions in this regard, ^{some of} which have also found place in the averments made in the original application. But in my view, there is no basis of the petitioner's claim of interest on such delayed payment of family pension from 18 to 21 years of his age. It appears from the record that the petitioner has entered into lengthy correspondence with the respondent authorities in respect of such claim, which has been refused by them. Admittedly, the rules in this regard do not contain any provision regarding payment of interest in such cases of delayed payment of family pension. The petitioner was informed by the respondent authorities in the letter dated 9.10.95(vide Annexure A/1) that under the existing Pension Rules, interest on delayed payment of family pension was not admissible. Even before that, the petitioner was informed by the respondent authorities under their letter dated 16.8.91 as per Annexure A/1 that there was no provision in the CCS(Pension) Rules for payment of interest on delayed payment of pension and also interest on interest. In a letter dated 3.8.90, the petitioner was informed that the issuance of authority for payment of

family pension to him up to 21 years of age was due to non-availability of relevant information regarding his P.P.O. No. allotted by his office, which he did not mention in his correspondence. He was directed to contact the Zonal Accounts Office (CBDT), Calcutta - 700 069 for the purpose. It appears from the record that the petitioner continued to prefer representations before the Chairman, C.B.D.T., Director(Grievance), C.B.D.T. over the ~~payment of~~ delayed payment of family pension claiming interest ~~thereon~~.

9. From the materials on record, it is difficult to come to a conclusion that there was any deliberate and malafide motive on the part of the respondents in the matter of delayed payment of family pension to the petitioner from 18 years to 21 years of his age. The petitioner has prayed for penal interest on such delayed payment, which was paid to him on 15.1.91. This application was filed on 2.8.96. So, definitely such claim is barred by limitation under the provision of the Central Administrative Tribunals Act, 1985. Repeated representations on the part of the petitioner cannot extend the period of limitation. Mr. Bhattnagarjee has argued that the provision of the AT Act will not be applicable here and the general provision of the Limitation Act will be applicable here. He has referred to a decision of the Supreme Court, reported in Supreme Court Service Rulings - Vol.3 - (Anand Swarup Singh v. State of Punjab). pg. 658/ But this decision of the Apex Court, as has been rightly submitted by Mr. Banerjee, Ld. Counsel appearing for the respondents, has no application to the present case, which is covered by the provision of the A.T. Act, which is a special Act for the purpose. Furthermore, this judgment was delivered on 30.11.71, when the CAT Act did not see ^Wlight of the day.

10. In view of the above, I am ^{also} of the view that the petitioner's claim for interest on such delayed payment of family pension does not stand on merit and also barred by limitation. Hence, there is no substance in the instant original application, which must fail. Accordingly, it is dismissed.

11. No order is made as to costs.

S. N. Mallick
(S. N. Mallick)
Vice-Chairman