

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.O.A.1126/1996

Date of order : 13/8/94

Present : Hon'ble Mr. S.K. Hajra, Administrative Member
Hon'ble Mr. K.V. Sachidanandan, Judicial Member

Upendra Nath Dhali
VS.

1. Union of India, Service through the Secretary, Ministry of Communication, Dak Tar Bhawan, New Delhi
2. The Secretary, Ministry of Home Affairs, Department of Internal Security, (Rehabilitation Division), New Delhi
3. The Post Master General, W.B. Circle, Yogayog Bhavan, P-36, C.R. Avenue, Cal-12
4. The Superintendent of Post Offices, Asansol Division, Asansol-713 301

For the applicant : Mr. B. Mukherjee, counsel
Mr. K.S. Dey, counsel

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

O R D E R

Per K.V. Sachidanandan, J.M

The applicant who was working as Postal Assistant at Durgapur at the time of filing of this O.A. was aggrieved by the non-payment of arrears due to him after re-fixation of his pay according to the recommendations of the Pay Commission and the Judgment dated 31.3.1994. Being aggrieved by the inaction on the part of the respondents the applicant has filed this O.A. seeking the following main relief:-

"(a) Direct the respondents to re-fix and pay the applicant the revised pay scale of Rs.425-640/- as the then Assistant Teacher of defunct Mana Camp with effect from 1.1.1973 to 31.12.1995 and also further re-fix in the pay scale of Rs.1400-2500/- consequent on 4th Pay Commission with effect from 1.1.1986 till the date of the payment of the aforesaid pay scale with all arrears and consequential benefits alongwith interest @ 18% annually compounded from the date from 01.01.1975 to the date of actual payment."

2. The respondents have filed a detailed reply statement contending that the amount has already been paid after filing of this O.A.

3. Mr.B. Mukherjee leading Mr. K.S. Dey, ld. counsel appears on behalf of the applicant. Mr. M.S. Banerjee, ld. counsel appears on behalf of the respondents.

4. When the matter came up for hearing counsel for both parties admitted and submitted that after filing of this O.A. relief has already been granted to the applicant and the arrear amount has been paid.

5. Ld. counsel for the applicant further submitted that though relief has already been granted, question of payment of interest remains which he prayed in this O.A.


6. Ld. counsel for the applicant submitted that the delay in paying the amount was insisted because of the laches on the part of the respondents.

7. The respondents' counsel on the other hand submitted that the applicant was working as an Assistant Teacher and subsequently joined the Postal Department and, therefore, the applicant sought refixation of his pay reckoning the period of service rendered in Mana Camp. He further submitted that it took some time in verifying the concerned records and processing the payment which was beyond the control of the respondents, therefore, the respondents are not liable to pay any interest on the arrears. He further submitted that the applicant has accepted the amount without any objection and, therefore, question of payment of interest does not arise.

8. The applicant's counsel has taken us to a decision reported in (1992)19 ATC-130(Manju Rani Sarkar(Smt.) Vs. Union of India & Ors.) wherein this Bench of the Tribunal has held that absorbing department directed to refix the the pay scale of the applicant in accordance with 3 revisions of pay scales and to pay arrears along with interest.

9. It has also brought out that the applicant had made representations and was seeking relief as per the order of the Tribunal in O.A.No.15/1994 dated 31.3.1994 in case of similar and identically placed persons:

10. Interest is a compensation for forbearance and detaining of

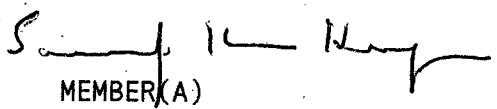


money and the interest is being awarded to a party only for a long keeping of money which ought to have been paid to him in appropriate time. The Hon'ble Supreme Court in a celebrated decision reported in 2003 SCW-1266(Abati Bezbaruach Vs. Deputy Director of Geological Survey of India) had accepted this dictum and declared that no principles could be deduced nor any right of interest could be fixed to have a general application merchantile usage and doctrine of equity will apply. However, in the given case, we are of the view that there is a delay caused in disbursing the amount to the applicant since the applicant is claiming the benefit on the basis of orders of this Tribunal in O.A.No.15/1994. Therefore, we direct that interest should be granted to the applicant within 3 months from the date of such order i.e. 31.6.1994 onwards at the rate of 9% on the amount of arrears already paid to the applicant till the date of actual payment, if not already given. The entire exercise shall be completed within a time frame of 3 months from the date of receipt of copy of this order.

11. In the circumstances, we allow the O.A. to that extent with no order as to costs.



MEMBER(J)



MEMBER(A)