

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J_O_D_H_P_U_R.

Date of Order : 28.11.2000.

O.A. No. 319/1998

L.M. Gangani S/O Shri Manik Mal Gangani, aged about 65 years, R/O C-219, Pratap Nagar, Udaipur. Official Address : Retired Supdt. Post Offices, Sirohi.

... Applicant

VS

1. The Union of India, through the Secretary, Ministry of Communication, Deptt. of Post, Govt. of India, New Delhi.
2. The Director General, Post Offices, Dak Bhawan, New Delhi.
3. The Post Master General, Rajasthan (western Region), Jodhpur.
4. The Deputy Director of Accounts (Postal), Jaipur.
5. The Supdt. of Post Offices, Sirohi.

... Respondents

Mr. Kamal Dave, Counsel for the Applicant.

Mr. Vineet Mathur, Counsel for the Respondents.

COURT :

Hon'ble Mr. A.K. Misra, Judicial Member

BY THE COURT :

The applicant has filed this O.A. with the prayer that the respondents be directed to pay to the applicant interest on the delayed payment of pensionary benefits @ 18% per annum. The respondents be further directed to make the payment of the T.A. bill pending with the department for attending the Criminal Case, to the applicant with legal expenses and costs.

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2. Notice of the OA was given to the respondents, who have filed their reply stating therein that the applicant should have approached the Civil Court in the matter of payments of this nature. The Tribunal has no jurisdiction to entertain such case. It is further stated by the respondents that the applicant has been paid interest amounting to rupees 41,184/- on the delayed payment of DORG @ 12% p.a compounded annually for the period from 1.9.1992 to 30.11.1997 as per the decision of Government of India under Rule 68 of the CCS (Pension) Rules. It is also alleged by the respondents that a sum of Rs.8026/- was also paid to the applicant on account of T.A. Bills, on 28.1.99. The applicant is not entitled to any interest on the amount of leave encashment amount as the payment was delayed due to the pendency of a Cr. case against the applicant. The respondents have stated that the applicant has been granted the relief as prayed for. Therefore, the O.A. does not survive now. The OA deserves to be dismissed.

3. I have heard the learned Counsel for the parties, and have gone through the case file.

4. It may be mentioned that on 11.1.99, the learned Counsel for the applicant, while arguing the case for issuance of show cause notice to the respondents stated that he does not want to press the relief No.2 relating to T.A. claim of the applicant. Hence, this aspect of the case need not detain me any more. However, the respondents have made the payment of the T.A. Claim to the applicant during the pendency of the O.A. as stated in the reply. This position is admitted by the applicant during arguments.

Yours

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5. Now, the relief relating to grant of interest on the amount of retiral benefits of the applicant, paid to him after an inordinate delay is to be considered. As per service law the retiring Government servant is granted DCRG, leave encashment, commutation pension and pension as retiring benefits. These benefits became due to a government servant on the very next day of his retirement. But these benefits can be deferred if any Departmental Enquiry proceedings or Criminal Case is pending against the Government servant and became due for payment to such Government servant on termination of such proceedings resulting into exoneration or acquittal of such Government servant, as the case may be. However such Government servant can be granted provisional pension during pendency of such proceedings. In this respect Rule 69 of the Central Civil Services (Pension Rules, 1972 (for short Pension Rules) and sub rule 3 of Rule 39 of Central Civil Services (Leave) Rules 1972 (for short 'Leave Rules') can be usefully quoted hereunder, Rule 69 of Service Rules :-

"69 Provisional pension where departmental or judicial proceedings may be pending

(1) (a) In respect of Government servant referred to in sub rule (4) of Rule 9, the Accounts Officer shall authorise the provisional pension equal to the maximum pension which would have been admissible on the basis of qualifying service upto the date of retirement of the Government servant, or if he was under suspension on the date of retirement up to the date immediately preceding the date on which he was placed under the suspension.

(b) The provisional pension shall be authorise by the Accounts Officer during the period commencing from the date of retirement upto and including the date on which, after the conclusion of departmental or judicial proceedings, final orders are passed by the competent authority.

(c) No gratuity shall be paid to the Government servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon;

Provided that where departmental proceedings have been instituted under Rule 16 of the Central Civil Service (Classification, Control & Appeal) Rules, 1965, for imposing any of the penalties specified in claus (i), (ii) & (iv) of Rule 11 of the said rules, the payment of gratuity shall be authorised to be paid to the Government servant.

(2) payment of provisional pension made under sub-rule (1) shall be adjusted against final retirement benefits sanctioned to such Government servant upon conclusion of such proceedings but no recovery shall be made where the pension final sanctioned is less than the provisional pension or the pension is reduced or withheld either permanently or for a specified period."

Sub rule 3 of Rule 39 of the leave Rules : -
"39 Leave/Cash payment in lieu of leave beyond the date of retirement, compulsory retirement of quitting of service.

(3) The authority competent to grant leave may withhold whole or part of cash equivalent of earned leave in the case of a Government servant who retired from service on attaining the age of retirement while under suspension or while disciplinary or Criminal proceedings are pending against him, if in the view of such authority there is a possibility of some money becoming recoverable from him to conclusion of the proceedings against him. On conclusion of the proceedings, he will become eligible to the amount so withheld after adjustment of Government dues, if any."

6. From the aforesaid rules it appears that if either judicial proceedings or departmental proceedings are pending against the Government servant on the date of his superannuation, he shall be entitled to only provisional pension and no DCRG or leave encashment will be paid or allowed to him until the conclusion of the departmental/judicial proceedings in his favour.

7. In the instant case, the applicant superannuated on 31.5.92. At that time a Criminal case relating to an ^{Departmental} accident of the vehicle said to be driven by the applicant was pending against the applicant. Charges in the Cr. Case ^{were} read over to the applicant on 17.10.90. The Cr. Case came to be decided on 7.5.97 resulting into aquittal of the applicant. The applicant was paid DCRG amount thereafter.

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Interest amounting to Rs.41184/- @ 12% compounded annually was also paid on the amount of DCRG on 14.8.'98 for the period from 1.9.92 to 30.11.97 to the applicant. This amount is not said to be wrongly calculated or short paid, by the ^{by the applicant} Respondents, therefore, the facts stated by the respondents in their reply cannot be said to be incorrect. No provision has been shown by the applicant which may entitle the applicant to claim interest over interest on the amount of DCRG.

8. As per sub Rule 3 of Rule 39 of the leave Rules- an amount of earned leave encashment could be detained by the concerned authority. No provision has been brought to my notice which may entitle the applicant to get interest of the amount of leave encashment. Therefore, the applicant cannot claim interest on the amount of leave encashment paid delayedly.

9. As regards commutation of pension and interest on the amount of commutation, suffice it to say that so long commutation of pension is not allowed and paid the Government servant gets full pension, therefore, the question of payment of interest on the commuted amount of pension does not arise at all. Thus, the claim of the applicant has no legs to stand upon.

10. In my opinion, the claim of the applicant bears no merit and the O.A. deserves to be rejected.

11. The Original Application is, therefore, dismissed.

12. Parties are left to bear their own costs.

J

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28/11/2000
(A.K. MISRA)
Judicial Member

Re
Copy
Kew
5/12/08

~~W/C~~
1/12/2008

Part II and III destroyed
in my presence on 24/12/07
under the supervision of
Section Officer (Record) as per
order dated 10/12/07

Section Officer (Record)