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**CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR**

ORIGINAL APPLICATION NO: 300/2002

DATE OF ORDER: May 23, 2003

Shri Har Gopal Joshi son of Shri Madan Gopal Caste Joshi aged 62 years retired Welder Central State Farm Jetsar District Ganganagar (Rajasthan) Resident of Kikani Vyasoni-ka-Chowk, Bikaner (Rajasthan).

...Applicant

V E R S U S

- (1) Union of India through Secretary,
Ministry of Agriculture Department of Agriculture and
Co-Operation, Krishi Bhawan, Rafi Marg,
New Delhi.
- (2) Under Secretary,
Seed-II Section Department of Agriculture and
Co-Operation, Krishi Bhawan Rafi Marg,
New Delhi.
- (3) Chief Administrative Officer,
State Farm Co-Operation of India,
14-15 Farm Bhawan, Nehru Place,
New Delhi-110019.
- (4) Director, Central State Farm, Jetsar,
District Sriganganagar (Rajasthan) 33709.
- (5) Pay and Accounts Officer,
Ministry of Agriculture and Co-Operation,
Room No. 105, "F" Wing Shastri Bhawan,
New Delhi-110001.
- (6) Pay and Accounts Officer,
Central Account Office,
Ministry of Finance (Deptt. of Expenditure),
Trikoort-II Complex Bhikaji Complex behind Hotel
Hyat Regency, New Delhi-86.



...Respondents

Mr. Bharat Singh & Mr. Mahesh Shrimali, counsels
for the applicant.

Mr. C.S. Kotwani, Advocate brief holder for
Mr. M.C. Bhoot, counsel for the respondent no. 1, 2, 5, & 6.

CORAM:

HON'BLE MR. J.K. KAUSHIK, JUDICIAL MEMBER

ORDER

Shri Har Gopal Joshi has filed this Original Application for claiming interest at the Bank rate of 18% per annum on delayed payment of Death-Cum-Retirement-Gratuity, which has been paid on 29.07.2002 instead of 01.12.1997.

2. The indubitable facts of this case are that the applicant served as Welder in the Central State Farm, Jetsar, District Sriganganagar (Rajasthan) and retired on superannuation on 30.11.1997. He was due to be paid the gratuity amount on 01.12.1997 but he was paid an amount of Rs. 83,176/- as per Cheque No. 800091 only on 29.07.2002. He has further averred that the applicant suffered acute monetary difficulties and harassment for a long period. He has been approaching the concerned authorities to pay the amount of DCRG but the respondents have delayed these payments. He is entitled to get



interest at the Bank rate of 18% per annum on the amount DCRG for the period of delay.

3. The respondent nos. 1, 2, 5 & 6 who are concerned and responsible in the matter and were issued notices have filed a detailed counter reply to the Original Applications and have vigorously contested the matter. They have taken a preliminary objection that the Original Application is not maintainable since the service matters of an employee of the Central State Farm, Jetsar do not cover under the jurisdiction of this Hon'ble Tribunal in as much as the Administrative Tribunals Act, 1985. As regards the merit of the case, it has been admitted that the various orders have been issued in connection with grant of pension and the Death-cum-Retirement Gratuity (DCRG, for bravery) by the said respondents. It has been denied that the applicant has suffered any least to say acute monetary difficulties and harassment and also denied that he is entitled to get any interest. The other facts have been generally denied and an additional plea has been taken that the processing of the case has taken time since the Corporation suffered heavy losses due to adverse agro-climatic conditions during the last 6 years and the delay cannot be said to be without any reason. The delay was bona fide and the applicant is not entitled to any interest. Therefore, the Original Application deserves to be dismissed.



4. With the consent of parties the case was taken up for final disposal at admission stage. I have heard the learned counsel for the parties and have carefully perused the records of this case including the arguments and pleadings.

5. It would be appropriate to dispose of the preliminary objection raised in the Original application as regards to the jurisdiction of this Tribunal and maintainability of this application. In the present case admittedly the retrial dues are to be paid by the 5th respondent which is under respondent no. 1 & 2. The P.P.O has also been issued by the 5th respondent. There is no doubt that the applicant has served in the Central State Farm Corporation of India. But since the liability to pay the retrial dues especially the pension and gratuity rests with the respondent no. 1, 2 & 5th who are definitely within the jurisdiction of this Tribunal. Hence there is no force in the preliminary objection and the same stands overruled.

6. Now, advertent to the merits of the case, both the learned counsel for the parties have reiterated their stand, facts and grounds etc. raised in their respective pleadings. The learned counsel for the applicant has submitted that there was absolutely no fault on the part of the applicant and his due amount has not been released to him in-time. He has also submitted that by now the law is well settled that the pensionary benefits are not bounty but they are substantive rights.



7. On the contrary, the learned counsel for the respondents has strenuously opposed the contention raised on behalf of the applicant and has urged that the respondents were faced with acute financial problem and they have been sincerely making efforts to release all the dues of the applicant and the movement of the financial position. The due amounts were released sooner it became feasible.

8. I have considered the rival contentions raised on behalf of the parties. At the very out-set, it would be expedient to mention that admitted position of the case are that the applicant retired on 30.11.1997 and the gratuity amount of Rs. 83,176/- was paid to him on 29.07.2002. As per the rules in force one becomes entitled to the payment of his retrial dues on the date of retirement. However, in case of gratuity, three months margin period has been prescribed in the normal cases of superannuation which is the present case. It is also borne out from the pleadings that there has been no fault on the part of the applicant so as to delay the payment of the DCRG amount. I have not been shown any law which makes any provision that due to some financial problem or difficulty retrial dues of employee can be withheld or delayed. There is a specific rule i.e. Rule 68 of CCS (Pension) Rules and also Government of India's Decision No. (2), below the said rule which prescribe the interest on delayed payment of gratuity. To appreciate the

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controversy, the contents of the said Rule/Instruction are extracted as under; -

"68. Interest on delayed payment of gratuity:

- (1) If the payment of gratuity has been authorized later than the date when its payment becomes due, and it is clearly established that the delay in payment was attributable to administrative lapses, interest shall be paid at such rate as may be prescribed and in accordance with the instructions issued from time to time:

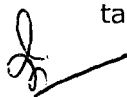
Provided that the delay in payment was not caused on account of failure on the part of the Government servant to comply with the procedure laid down by the Government for processing his pension papers.

- (2) Every case of delayed payment of gratuity shall be considered by the Secretary of the Administrative Ministry or the Department in respect of its employees and the employees of its attached and subordinate offices and where the Secretary of the Ministry or the Department is satisfied that the delay in the payment of gratuity was caused on account of administrative lapse, the Secretary of the Ministry or the Department shall sanction payment of interest.
- (3) The Administrative Ministry or the Department shall issue Presidential sanction for the payment of interest after the Secretary has sanctioned the payment of interest under sub-rule (2).
- (4) In all cases where the payment of interest has been sanctioned by the Secretary of the Administrative Ministry or the Department, such Ministry or the Department shall fix the responsibility and take disciplinary action against the Government servant or servants who are found responsible for the delay in the payment of gratuity."

GOVERNMENT OF INDIA'S DECISIONS

(2) Interest for delayed payment of Retirement/Death Gratuity to be at the rate applicable to GPF deposits.- 1. It has been decided that where the payment of DCRG has been delayed beyond three months from the date of retirement, an interest at the rate applicable to GPF deposits (at present 12 per cent compounded annually) will be paid to retired/dependants of deceased Government servants.

2. The Administrative Ministries are requested to ensure that in all cases where interest has to be paid on Death-cum-Retirement Gratuity because of administrative delay, action should be taken against the officer responsible for the delay.



5. (a) The rate of interest mentioned in Para 1 above will be applicable in all cases where the DCRG has not been paid as on date of issue of this OM.

6. All existing instructions relating to interest rate payable by the Government or the employees, as the case may be, will cease to operate with effect from the date of issue of this OM.

[G.I., Dept. of Pen. & P.W., O.M. No. F.7/1/93-P.&P.W. (F), dated the 25th August, 1994. - Paras 1,2,5 (1) and 6.]

9. From the mere perusal of the aforesaid Rule and Decision, it appears that the interest on delayed payment for gratuity would be admissible after a period of three months from the actual date of superannuation. Since the delay is not attributable to the applicant and it was incumbent on the respondents to release the due amount on the due date which was not done within the scheduled time frame the inescapable result is that applicant would be entitled to interest as per the rate of applicable to GPF deposits from time to time from a date three months after the date of superannuation i.e. 1st March, 1998.

10. The learned counsel for the respondents has placed reliance on the judgment dated 05.07.2002 passed by this Bench of the Tribunal in **Mukat Singh vs. Union of India & Ors.** (O.A. No. 59/2000) and has submitted that very recently an interest to the applicant @ 7% per annum compounding annually has been allowed on delayed payment and if the Tribunal comes to a conclusion that the interest is required to be paid then this percentage may be maintained. I have gone



through the said case and find that the facts therein are distinguishable in as much as the Government of India's Instructions as well as Rule 68 of CCS (Pension) Rule have not been discussed therein. The specific Government of India's decision/instructions is required to be followed. In this view of the matter, the interest rate which is provided in the said instructions is required to be adhered to.

11. In the premises, the Original application has much force and the same deserves to be allowed. The same is hereby allowed. The respondents are directed to make payment for the interest on the due amount of DCRG for the period from 01.03.1998 to 28.07.2002 @ which is applicable GPF deposits from time to time within a period of three months from the date of receipt of a copy of this order. In the facts and circumstances of the case, there shall be no order as to cost.


(J.K. KAUSHIK)
JUDICIAL MEMBER

Kumawat

Part II and III destroyed
in my presence on 3.6.08
under the supervision of
section officer (1) as per
order dated 27.2.08
NGK
Section officer (Records)

Received copy
msh
29/5

Copy of order dated 23.5.2009
Send to counsel for Respondents
By Regd-Post vide no. 86
dated 4.6.08.
05-6-08

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4.6.08