

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.290/00205/2015

Reserved on 15.09.2016

Jodhpur, this the th 7 day of October, 2016

CORAM

Hon'ble Ms. Praveen Mahajan, Administrative Member

Bajrang Singh Chowdhary s/o Late Sh. Umed Ram Chowdhary, aged about 56 years, R/o House No.426 1st 'D' Road Sardarpura, Jodhpur. Presently working on the post of Deputy Director Contract, AEE (QS&C) in the office of Chief Engineer, Jodhpur Zone, Jodhpur

.....Applicant

By Advocate: Mr. S.K.Malik

Versus

1. Union of India through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Director General (Personnel), Military Engineer Service, Engineer-in-Chief's Branch, Integrated Head Quarter of MOD (Army), Kashmir House, DHQ PO, New Delhi.
3. Chief Engineer, Jodhpur Zone, Jodhpur.

.....respondents

By Advocate: Mr. B.L.Tiwari

ORDER

The present OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 against non-payment of interest on delayed payment of the benefit of 2nd ACP and 60% arrears of the 6th Central Pay Commission (CPC, for short) recommendations. In relief, he has prayed that the

respondents may be directed to grant interest @ 18% per annum on delayed payment of 2nd ACP w.e.f. 27.10.03 to 30.06.14 on a sum of Rs.6,37,085/- and delayed payment of 60% arrears of 6th CPC w.e.f. October 2008 to 13.03.2015 on a sum of Rs. 84,766/-.

2. The applicant avers that after recommendations of 5th Central Pay Commission, the Department of Personnel and Training vide OM dated 09.08.1999 introduced ACP scheme for Group-B, C and D employees on completion of 12 and 24 years of regular service. This scheme was made applicable from 09.08.1999. The applicant completed 24 years of regular service on 27.10.2003. His case should have been processed by the Screening Committee in July, 2003 so as to grant him benefit w.e.f. 27.10.2003. This was not done in time and finally respondent No.2 vide letter dated 08.11.2006 issued panel for grant of 2nd ACP in the pay scale of Rs. 8000-13500 w.e.f. 27.10.2003 (Ann.A/1). Accordingly, PTO dated 11.12.2006 (Ann.A/2) was published for grant of 2nd financial upgradation under ACP scheme in the pay scale of Rs. 8000-13500. But even then, no fixation or payment was made to the applicant. Hence, the applicant represented to the respondents on 24.11.2011 (Ann.A/3). It was only vide letter dated 25.02.2014 that the respondents raised special bill on account of arrears of pay fixation and arrears of 6th CPC (Ann.A/4). The arrears of 2nd ACP was paid to the applicant on 30.06.2014 after deducting income tax, however, no payment of 60% arrears was

made. Therefore, the applicant again filed representation dated 18.02.2015 (Ann.A/6), following which the respondents made payment of the 60% arrears of 6th CPC on 13.03.2015, which had become due in October, 2008.

After receiving the amount, the applicant again represented on 13.05.2015 requesting for grant of penal interest @ 18% on delayed payment of 2nd ACP arrears and 60% arrears of 6th CPC w.e.f. the respective due dates till the date of payment. In this regard the applicant has cited the order dated 06.09.2011 of the CAT-Chandigarh Bench in OA No.14/PB/2011- Ashok Kumar Gupta v. UOI and Ors. (Ann.A/8) wherein interest has been granted. When, nothing was done, aggrieved of non-payment of interest, the applicant has filed the present OA.

3. In reply to the OA, the respondents have raised a preliminary objection stating that the OA is not maintainable without there being any written order against the applicant as required under Section 19 of the AT Act, 1985. The respondents have admitted entitlement of the applicant for ACP but denied the delay, stating that due to various reasons Screening Committee could not process the case of the applicant earlier. The respondents have stated that after receipt of his option certificate further proceedings in the matter were completed and all necessary benefits were granted to the applicant. So far as Ashok Kumar Gupta's case (supra) decided by the CAT-Chandigarh

Bench is concerned, the respondents submit that facts of that case are entirely different from the facts of this case. Otherwise too, the decision of CAT-Chandigarh Bench is not binding upon this Hon'ble Bench. The respondents have further submitted that there is no provision for payment of interest on the amount of arrears of pay consequent to fixation. Therefore, the OA is liable to be dismissed.

4. The applicant has not filed rejoinder to the reply filed by the respondents.

5. On perusing the record and hearing the rival contentions, it is clear that there has been an abnormal delay caused by the respondents in making payment to the applicant- both – as per his entitlement of 2nd ACP - as well as for payment of 60% arrears of 6th CPC. The dates when the entitlement accrued to him, are not in dispute.


6. The respondents have not been able to make out any case for justifying delay in making the payment on their part. Though, there is mention in the reply that payment to the applicant was delayed because of non-submission of the option of the applicant, but this is not substantiated by any documentary evidence. In view of the fact of the case, the responsibility of delayed payment, seems to lie squarely with the respondents, for which no convincing protests or explanation is forthcoming.

7. The very purpose of these schemes/recommendations, be it ACP or recommendations of 6th CPC, stands defeated, if a lackadaisical approach is adopted in implementation of the same.

8. I, therefore, hold that the applicant is entitled to interest on delayed payment of 2nd ACP as well as on 60% arrears of 6th CPC.

The respondents are accordingly, directed to pay interest to the applicant w.e.f. the due dates, at the applicable GPF rate, within a period of three months, from the date of receipt of a copy of this order.

9. The OA stands disposed of in above terms with no order as to costs.


(PRAVEEN MAHAJAN)
Administrative Member

R/

Ree
~~Am~~ Adv
18/10/16
CJ
18/10/16