

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00215/15

Jodhpur, this the 3rd October, 2016

CORAM

Hon'ble Ms Praveen Mahajan, Admn. Member

D.C. Bhandari, Principal Scientist (Retired), C-137 "ADORA CREST", Krishna Nagar, New Pali Road, Jodhpur - 342 005.
(Presently retired from the post of Principal Scientist from CAZARI)

.....Applicant

By Advocate: Mr Manoj Bhandari.

Versus

1. The Indian Council of Agricultural Research (ICAR), Krishi Bhawan, Dr Rajendra Prasad Road, New Delhi 110 114 through its Secretary.
2. The Director General (ICAR) & Secretary (Department of Agricultural Research and Education (DARE), Indian Council of Agricultural Research (ICAR), Krishi Bhawan, Dr Rajendra Prasad Road, New Delhi - 110 114.
3. The Director, Central Arid Zone Research Insitute (Indian Council of Agricultural Research), Jodhpur - 342 003 (Rajasthan).

.....Respondents

By Advocate : Mr Ashok Chhangani.

ORDER (Oral)

The present Original Application has been filed U/s 19 of the Administrative Tribunals Act, 1985 seeking following reliefs:

- (i) By an appropriate order or direction, the respondents be directed to release all the retiral benefits to the applicant

including pension, gratuity, commutation of pension etc. with all consequential benefits.

- (ii) By an appropriate order or direction, the respondents be directed to make the payment of interest @ 18% per annum from the date the amount of final pension, commutation and other retiral benefits including gratuity has become due till the date of payment.
- (iii) In the alternative, without prejudice to above, by an appropriate order, or direction, the memorandum issued to the applicant may kindly be declared illegal and be quashed and set aside.
- (iv) Any other appropriate order or direction which this Hon'ble Tribunal may deem fit just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant.

2. Heard Mr Manoj Bhandari, Ld. counsel for applicant and Mr Ashok Chhangani, Ld. counsel for respondents for some time. When the matter was taken up today for final hearing, Ld. counsel for applicant brought to notice of the court that the disciplinary proceedings initiated against Shri D.C. Bhandari (the applicant) vide memorandum dated 28.03.2013 (Annex. A/3) had been dropped vide order dated 11.05.2016 (Annex. A/11). He submitted that in view thereof, that nothing survives against the applicant in the current OA since the case has already been decided in his favour. He, however, prayed that since minor penalty has no effect on pension after retirement as per Rule 9 of CCS (Pension) Rules, 1972, therefore, respondents may be directed to release the pension and pensionary benefits withheld

alongwith interest @ 18% per annum. In support of his argument he relied upon the following judgments :

- (i) S.K. Dua Vs. State of Haryana and Anr. reported in (2008) 3 SCC 44
- (ii) Union of India Vs. Justice S.S. Sandhawalia (Retd.) and Others reported in (1994) 2 SCC 240

3. Mr Chhangani, Ld. counsel for respondents, during course of arguments submitted that the interest if considered due by this court, should be from the date when the disciplinary proceedings were dropped and not from the date when pensionary benefits became due to the applicant.

4. I have considered the submissions made by both the counsels and also perused the record, and judgments cited by the Ld. counsel for applicant. In the S.K. Dua's case (supra), the appellant, a pensioner approached the High Court, seeking a direction to pay interest for delay in disbursing his terminal benefits. The writ petition was dismissed in limine, the appeal was taken to the Hon'ble Supreme Court. **The Hon'ble Apex**

Court held that :

“We are of the view that the grievance voiced by the Appellant appears to be well-founded that he would be entitled to interest on such benefits. If there are Statutory Rules occupying the field, the Appellant could claim payment of interest relying on such rules. If there are administrative instructions, guidelines or norms prescribed

for the purpose, the Appellant may claim benefit of interest on that basis. But even in absence of Statutory Rules, Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. The submission of the learned Counsel for the Appellant, that retiral benefits are not in the nature of "bounty" is, in our opinion, well-founded and needs no authority in support thereof."

The applicant was served minor penalty charge sheet on 28.03.2013 and his date of retirement was 31st October, 2014. Now, the respondents themselves vide order dated 11.05.2016 (Annex. A/11) had dropped the disciplinary proceedings initiated against the applicant vide Memorandum dated 28.03.2013 (Annex. A/3). It has been stated that minor penalty has no effect on pension after retirement as per Rule 9 of CCS (Pension) Rules, 1972. In view of this, and the very clear law laid down by the Hon'ble Apex Court on the subject, the issue needs no further deliberation.

5. Accordingly, OA is allowed. Looking to the facts and circumstances of the case, the respondents are directed to release all the withheld pensionary benefits to the applicant i.e. pension, commutation, gratuity etc. with interest at GPF rates applicable for each relevant year, from the date these benefits became due to the applicant till the date of payment. No costs.


[Praveen Mahajan]
Administrative Member

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