

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No.M.A.288 of 1997  
(O.A.833/1997)

Present : Hon'ble Mr. D. Puri, Judicial Member

HRIDAY RANJAN BISWAS

VS.

UNION OF INDIA & ORS.

For the applicant : Mr. B.P. Saha, counsel

For the respondents : Ms. K. Banerjee, counsel

Heard on : 10.6.99

Order on : 10.6.99

O R D E R

for decision

The question is whether the applicant is entitled to get penal interest or interest on delayed payment of retirement dues. According to the applicant, he was working in the post of Divisional Accounts Officer, Gr.I under Indian Audit and Accounts Department and he retired on superannuation w.e.f. 31.8.94. But he has not been paid his retirement benefits on the date of retirement. It is alleged by the applicant that the respondents made payment of his retirement benefits after a lapse of several months from the date of his retirement (as per annexure A/2 to the app.). It is stated by the applicant that since he has not received retirement dues on the date of retirement, he is entitled to get interest on the amount at the rate of 16% w.e.f. the date of retirement till the payment is made.

2. The respondents denied the claim of the applicant by stating inter alia that a disciplinary case was pending against the applicant and that has been concluded on 25.8.94 i.e. a few days before retirement. It is stated by the respondents that the applicant retired on 31.8.94 and sanction order of gratuity and commuted value of pension was issued on 9.11.94 i.e. within the period of 3 months from the date of his retirement. It is also stated by the respdts.

that in this matter <sup>the</sup> claim of interest is not tenable in view of the Rule 68 of CCS(Pension) Rules, 1972. Thereby the application is devoid of merit and is liable to be dismissed.

3. Ld. counsel Mr. B.P. Saha appearing on behalf of the applicant refers to the judgment of the Hon'ble Apex Court reported in AIR, 1985, SC(1)-356(State of Kerala & Ors. Vs. M. Padmanabhan Nair). Referring <sup>to</sup> the said judgment of the Supreme Court, Mr. Saha submits that there was <sup>an</sup> intentional delay on the part of the respondents in making payment of settlement dues to the applicant. The respondents have not taken action before the date of retirement of the applicant. They collected all the necessary documents after his retirement, for the purpose of settlement of retiral dues and thus they flouted the instructions contained in the Rule 68 of CCS(Pension) Rules, 1972.

4. Ms. K. Banerjee appearing on behalf of the respondents, submits that there was no intentional delay on the part of the respondents in making payment of retirement dues. Ms. Banerjee ~~has~~ draws my attention to annexure R-1 to the reply and submits that if the payment <sup>of gratuity</sup> was not made within 3 months, then the applicant <sup>would be</sup> entitled to get interest for delayed payment as per rules. But in this case, all the payments could not be made on the date of retirement or within the prescribed period due to the reasons as ~~k~~ stated in annexure R-1 to the reply. So, the respondents are in no way responsible for such delay. Thereby the application is devoid of merit and is liable to be dismissed.

5. I have considered the submissions of ld. counsel for both the parties and have gone through the records. Recently, the Hon'ble Apex Court has decided the matter of payment of retirement dues in a case of Dr. Uma Agarwal Vs.

of U.P. & Anr. which runs as follows :-

"P.R. 59 deals with the stages for completion of papers'. Sub-Clause(1)(a) being the heading, the first and refers to the verification of service details. There parts in this sub-clause. Sub-clause(1)(b) refers to

the second stage, namely, making good the omissions in the service book. Sub-clause 1(b)(ii) is important and it states very clearly as follows :-

"Every effort shall be made to complete the verification of service, as in clause (a) and to make good omissions, imperfections or deficiencies referred to sub-clause (i) of this clause. Any omission, imperfections or deficiencies including the portion of service shown as unverified in the service book which it has not been possible to verify in accordance with the procedure laid down in clause (a) shall be ignored and service qualifying for pension shall be determined on the basis of the entries in the book."

This directive in the rules is obviously intended to see that once the period is quite close to 10 months before the retirement of an employee, further time is not to be wasted in verifying data which it has not been possible to verify by following the procedure in Sub-clause (1)(a) of F.R.59. F.R. 60 refers to 'completion of pension papers' in Part-I of Form 7 atleast 6 months before the date of retirement of the government servant. F.R.61 deals with the 'Forwarding of Pension Papers to Accounts Officer'. In Form 5 and Form 7 with a covering letter in Form 8 alongwith service book duly completed, upto date, and other documents. This has to be done atleast 6 months before the date of retirement. Rule 63 refers to recovery of amounts due by the government servant and the particulars in this behalf are to be sent atleast 2 months before the date of retirement, so that the same could be recovered from the gratuity. F.R. 64 deals with provisional pension. F.R. 65 requires the Accounts Officer to assess the amount of pension and gratuity atleast one month before the date of retirement. F.R. 68 requires interest to be paid on delayed payment of gratuity."

It is found that the Hon'ble Apex Court recently decided various facts regarding settlement of pension of the retired employees. The Hon'ble Apex court opined that :-

"If the rules/instructions are followed strictly - much of the litigations can be avoided and retired government servants will not feel harassed because after all, grant of pension is not a bounty but a right of the government servant. Government is obliged to follow the Rules mentioned in the earlier part of this order in letter and in spirit. Delay in settlement of retiral benefits is frustrating and must be avoided at all costs. Such delays are occurring even in regard to family pensions for which too there is prescribed procedure. This is indeed unfortunate."

It is further held by the Hon'ble Apex Court that :-

"In cases where a retired government servant claims interest for delayed payment, the court can certainly keep in mind the time-schedule prescribed in the rules/instructions apart from other relevant factors applicable to each case."

In view of the aforesaid settlement decisions of the Hon'ble Apex Court, I find that the respondents admittedly collected

the documents for the payment of settlement dues of the applicant after the date of his retirement. It is settled position that the employee is entitled to get pension & and retirement dues on the date of retirement. In a case of State of Kerala & Ors. Vs. M. Padmanabhan Nair reported in AIR, 1985, SC-356, the Hon'ble Supreme Court held that :-

" Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but are valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment. The liability to pay penal interest on these dues at the current market rate commences at the expiry of two months from the date of retirement."

Ld. counsel Ms. Banerjee has drawn my attention to the instructions contained in Government of India, Department of Personnel and A.R. O.M. No.7/3/84-Pension Unit dated 28.7.84 and submitted that if payment of DCRG has <sup>not</sup> been ~~made~~ <sup>made</sup> within 3 months, then the question of interest would arise. Ms. Banerjee further submits that commuted value of pension has also been paid within 3 months from the date of retirement. So, the claim of interest by the applicant may not be entertained in view of Rule 68 of CCS(Pension) Rules. I have considered the submission of Ms. Banerjee on that ~~ss~~ score and I find that the said instruction of Government of India dated 28.7.84 as ~~ss~~ mentioned above, was issued prior to the judgment of the Hon'ble Apex Court ~~in the matter~~ of State of Kerala & Ors. Vs. M. Padmanabhan Nair .

6. On a perusal of the abovementioned decisions of the Hon'ble Supreme Court and Annexure R-1 and R-II to the reply it is found that there was laches on the part of the respondents in making payment of settlement dues to the ~~px~~ applicant as per ~~provislions~~ provisions of the pension rules. I find that the applicant is entitled to get interest as per rules as he was not paid his retiral dues within prescribed period.

7. In view of the aforesaid circumstances, the respondents

are directed to make payment of interest @ Rs.12% per month on the amount of settlement dues to the applicant from the date of retirement till payment is made, within two months from the date of communication of this order. With these observations, the application is disposed of awarding no costs.



( D. PURKAYASTHA )  
MEMBER(J)

s.m.