

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No.O.A.656 of 1997

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

BADAL CHANDRA MONDAL

VS.

UNION OF INDIA & ORS.

For the applicant : Mr. N.K. Roy, counsel

For the respondents : Mr. P.K. Arora, counsel

Heard on : 7.5.99

Order on : 7.5.99

O R D E R

The question is whether the applicant is entitled to get interest at the rate of 18% for the period from 1.4.93 to 27.11.96 on the amount of Rs.81918/- being the settlement dues withheld due to departmental proceeding pending against the applicant. ~~et~~. According to the applicant, he retired from service on 31.3.93 on superannuation. Before his retirement, the applicant was chargesheeted by a letter dated 17.2.93 marked as Annexure A-1 to the application and on the basis of the said chargesheet an enquiry proceeding was held on 18.3.93 and enquiry report was submitted to the disciplinary authority. Thereafter the applicant retired from service on 31.3.93 and his retirement benefits i.e. gratuity, pension, leave salary, commuted value of pension etc. were withheld by the respondents for D&A case was pending against the applicant. However, the disciplinary authority did not agree with the report of the enquiry officer and passed ex parte order of de novo enquiry against the applicant by a letter dated 30.4.93 (as mentioned ^{by the Enquiry Officer} in the letter dated 5.5.93) marked as Annexure A-3). But that order of de novo enquiry has not been communicated to the applicant. On the basis of the said order, the enquiry officer again conducted enquiry and submitted report to the Disciplinary Authority on 18.5.93. But in the meantime, the

applicant challenged the order of de novo enquiry by filing an application bearing No.O.A. 162 of 1994 before this Tribunal which was disposed of on 1.2.96 directing the respondents to obtain presidential sanction or appropriate presidential order within a period of 6 months from the date of communication of the said order and liberty was given to the applicant to file a fresh application, if he is aggrieved by the decision in this matter. But ultimately, the disciplinary proceeding which was started against the applicant, was dropped by the order of the president by the letter dated 7.11.96 marked as Annexure A-5 to the application and the applicant was paid all his settlement dues on 28.11.96 and the cheque was issued on 21.11.96. Now the applicant claims interest at the rate of 18% for the period from 1.4.93 to 27.11.96 on his entire amount of settlement dues.

2. The respondents denied the claim of the applicant. It is stated that there is no laches on the part of the respondents in the matter of payment of settlement dues to the applicant. The respondents could not make payment of settlement dues to the applicant due to the pendency of departmental proceeding against the applicant which could not be completed before his retirement i.e. on 31.3.93. It is stated by the respondents that the president has been pleased to drop the proceeding against the applicant by an order dated 4.11.96 and all his settlement dues have been paid to the applicant on 28.11.96 i.e. after 24 days from the date of dropping of the disciplinary proceeding against the applicant. Since there is no laches on the part of the respondents in the matter of payment of settlement dues to the applicant, thereby the applicant is not entitled to get any interest on that amount as claimed in the application.

3. Ld. counsel Mr. N.K. Roy appearing on behalf of the applicant strenuously argued before me that disciplinary authority has no jurisdiction to start ^{de novo} disciplinary proceeding ~~as it held in this matter~~. He submits that in the judgment reported in ATR 1988(2) C.A.T. 506 (Sh. Jai Pal Singh versus Delhi Administration and others) it was held that :-

"Rule 16(x) does not empower the Disciplinary authority to order a de novo enquiry on the ground that the report of the Enquiry Officer does not appeal to him. In such a case nothing prevented the Disciplinary Authority from reconsidering the evidence and passing appropriate orders. The Disciplinary Authority can only order a supplementary enquiry being made through the same Enquiry Officer or by appointing another Enquiry Officer."

Mr. Roy ld. counsel for the applicant further submits that since the de novo enquiry against the applicant was without jurisdiction, the applicant is entitled to get interest on his amount of settlement dues.


4. Ld. counsel Mr. P.K. Arora appearing on behalf of the respondents submits that since the disciplinary proceeding was dropped by the presidential order and the applicant got all his settlement dues within 24 days from the date of dropping of the disciplinary proceeding against him, thereby there was no intentional delay on the part of the respondents. So, the applicant is not entitled to get interest on that score.

5. I have considered the submissions made by the ld. counsel for both the parties and have gone through the records. The dispute before me is that whether there was any intentional delay in the matter of payment of settlement dues to the applicant or not. Admittedly, departmental proceeding was initiated against the applicant before his retirement on superannuation i.e. on 31.3.93 and the said de novo enquiry was held after his retirement ~~which was not under the jurisdiction of the Disciplinary authority.~~

But that does not indicate that there was laches on the part of the respondents in the matter of payment of settlement dues to the applicant. In the instant case, a departmental proceeding was pending against the applicant which was finally dropped by the presidential order on 4.11.96 and all his settlement dues have been paid to the applicant within 24 days from the date of dropping of the disciplinary proceeding. The applicant received all his dues on 28.11.96.

6. In view of the aforesaid circumstances, I am satisfied that there was no intentional delay on the part of the respondents in the matter of payment of the settlement dues to the applicant.

Thereby I am of the view that the applicant is not entitled to get any interest on the amount of settlement dues for the period from 1.4.93 to 27.11.96 as mentioned in the application. Accordingly the application is dismissed awarding no costs.


(D. PURKAYASTHA)
MEMBER(J)

s.m.