

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. 456 of 1997

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

R.K. Ghosh

...Applicant

-v e r s u s-

Union of India and Ors.

...Respondents.

For the applicant : Mr. B.C. Sinha, counsel.

For the respondents : Ms. U. Sanyal, counsel.

Heard on 6.1.98

Order on 6.1.98

O R D E R

D. Purkayastha, JM

I have heard both the parties. The dispute raised in this application is whether the applicant is entitled to get interest on the due retiral benefits from 24.8.84 to 6.2.97 as per calculation at the rate of Rs.18% per annum or not. The case of the applicant is that he filed one O.A. bearing No. 646 of 93 for direction upon the respondents to pay the applicant's settlement dues in terms of the revised pay scale with effect from 1.1.86 and he also claimed direction upon the respondents to pay interest at the rate of Rs.18% per annum on the entire amount alongwith the other reliefs in the application. That O.A. was disposed of by the Hon'ble Tribunal on 29.4.94. Thereafter the applicant has come with a contempt petition against the respondents for non-compliance of the order which was numbered as C.P.C. 46/95 arising out of O.A. 646/93; that contempt petition was disposed of with observation which runs as follows:-

"As the matter has been finalised, even though after some delay, we find that it has been substantially complied with and as we are satisfied that the delay was unintentional and due to administrative reason, we do not consider it appropriate to issue any contempt rule. It is further observed that the excess amount as may be found due to the petitioner, shall be paid within four weeks from the date of communication of this order (dated 26.11.96)."

According to the applicant, he received Rs.43,848/- on 6.2.97 in pursuance of the direction given in the contempt petition and thereafter he has filed this application for interest for withholding payment of retiral benefit

of Rs.43,848/-.

2. The case is resisted by the respondents by filing a written statement stating inter alia that instant <sup>case</sup> is barred by res judicata in view of the fact that the applicant's claim for interest on due retiral benefits in the previous application was <sup>granted</sup> by the Tribunal at the time of disposal of the original application filed by the applicant. It is also stated that order of the Tribunal dated 26.11.96 in C.P.C. 46/95 was received by the Id. counsel on 4.12.96; thereafter it was communicated to the respondents and accordingly payment was made to the applicant on 6.2.97. Therefore, there is no intentional delay on the part of the respondents as alleged by the applicant.

3. I have considered the submission of both the parties. It is found from the provision of the rule that a pensioner is entitled to get benefit of interest only ~~in~~ cases where there had been or has been delayed payment of retiral benefits due to administrative lapse caused by the Department concerned. In the instant case from the judgment of the Tribunal in C.P.C. mentioned above, I find that the Tribunal had already opined that the delay was unintentional and due to administrative reason. And thereby ~~it~~ cannot be said now that there was administrative lapse and delay was intentional in respect of making payment of the retiral benefits to the applicant. Moreover, it is found from the judgment in the C.P.C. that the respondents was granted four weeks' time from date of communication of this order i.e. 26.11.96 and according to the Id. counsel for the respondents ~~that~~ she received the order on 4.12.96 and thereafter the same was communicated to the Department. Ms. Sanyal also submitted that <sup>after</sup> receipt of the order, she took minimum three days to communicate the same to the respondents.

4. In view of the circumstances, I do not find any <sup>reason</sup> since there <sup>is no</sup> intentional delay on the part of the respondents thereby the respondents are not liable to pay any interest on that amount and in view of the circumstances, the application is dismissed awarding no costs.

(D. Purkayastha)  
Member (J)