

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 49 of 1992
T. A. No.

DATE OF DECISION 13-10-1992

Mr PPS Dhanjjal Applicant (s)

M/s P Santhoshkumar & TA Rajan Advocate for the Applicant (s)

Versus

UOI, represented by Secretary, Respondent (s)
M/o Defence, New Delhi & another

Mr C Kochunni Nair, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. AV HARIDASAN, JUDICIAL MEMBER

~~XXXXXXXXXX~~

1. Whether Reporters of local papers may be allowed to see the Judgement? *Y*
2. To be referred to the Reporter or not? *W*
3. Whether their Lordships wish to see the fair copy of the Judgement? *W*
4. To be circulated to all Benches of the Tribunal? *W*

JUDGEMENT

The short question that arises for consideration in this application is whether an employee is entitled to claim interest for the belated payment of arrears consequent on fixation of pay. The applicant Shri PPS Dhanjjal while working as Assistant Engineer in the Uttar Pradesh Public Works Department was selected by the UPSC for appointment as an Assistant Engineer, Class-I in the Military Engineering Service. He was relieved from the post of Assistant Engineer of U.P., PWD on 13.2.1967 and joined in the MES on 15.2.1967. Immediately on completion of his probation, he applied for fixation of pay. But his pay was fixed in the minimum of the scale Rs.400-450-30-600-35-670-EB-35-950. The request of the applicant for fixation of pay

taking into account the pay drawn by him while working as an Assistant Engineer in the U.P., PWD was pending consideration at the hands of the respondents for a long period. Though in the case of an exactly similar officer, the Department had given the benefit of fixation of pay by order dated 22.1.1970 at Annexure-B, the same yardstick was not adopted in the case of the applicant. But ultimately after 19 years, the first respondent issued the order dated 8.1.1986 at Annexure-C amending the order dated 25.10.1966 of the Government of India, Ministry of Defence relating to the appointment and fixation of pay of the applicant giving the applicant the fixation of pay according to the rules. In accordance with this order the respondents fixed the pay of the applicant and drew and disbursed to the applicant the arrears consequent on such retrospective fixation in August 1988. On receipt of the arrears, the applicant has made a representation on 29.8.1988 to the second respondent claiming interest. He went on making further representations and ^bsubmitting supplementary bills claiming interest. In reply to the claim of the applicant for interest, the applicant received the impugned order dated 7.1.1991 at Annexure-N informing him that as no rules exist providing for ~~xx~~ payment of interest in cases like that of the applicant/^{the} claim for payment of interest cannot be acceded to. It is aggrieved by ~~this~~ communication that the applicant has filed this application under Section 19 of the A.T. Act praying that the impugned order at Annexure-N may be quashed and respondents may be directed to disburse the interest ~~xx per Annexure D xx~~ on the arrears from February 1967 to September 1991 and also the interest accrued to the

applicant from October 1991 till the date of actual payment.

2. The respondents resist the claim of the applicant on the ground that the fixation of pay in the case of the applicant was delayed only on account of some administrative reasons that there was no wilful delay and that as the applicant was already given whatever was due to him in the absence of any provision for payment of interest on delayed arrears of pay, the claim of the applicant for interest is unsustainable. It has also been contended that as the fixation of ^{pay of} the applicant was made as early as in the year 1986 since the applicant has made the claim for interest only in the year 1989, the claim is barred by limitation.

3. I have heard the arguments of the learned counsel on either side. I have also perused carefully the pleadings and the documents produced.

4. The respondents admit that the applicant was entitled to re-fixation of pay taking into account the pay drawn by him in the PWD of the ^{State of} ~~the~~ Uttar Pradesh when his pay was fixed in the service of the MES and that the fixation was delayed for nearly 19 years. The contention of the respondents that the delay was just an administrative delay and that for that reason, the applicant cannot put forth a claim for interest does not appear to be appealing at all. The delay in this case, to my mind is a culpable delay. Inaction on the part of the respondent officers on matters like fixation of pay which is of vital importance to the persons concerned, cannot be just ignored as an ordinary delay for administration reasons. The rules

regarding fixation of pay in similar cases were available with the Department. In fact cases of similar nature had been there in the Department. It is evident from Annexure-8 that in the year 1970, the Department had fixed the pay of an official who was identically situated as the applicant. In these circumstances, the respondents should not have slept over the claim of the applicant for all these years. The decline in money value is a factor to be taken judicial note of. Had the applicant been paid the salary to which he was entitled at the appropriate time, he would have enjoyed the worth of money at the appropriate time. Now that the value of money has miserably run down especially for the last 2 decades, to say that the applicant has not sustained any loss by administrative delay, is shutting the eyes towards reality. Therefore, to my mind, this contention of the respondents that the applicant is not entitled to interest on the arrears is wholly unjustified. The learned counsel for the respondents argued that there is no rule which direct payment of interest on the arrears of pay and allowances. If what is to be paid in time is not paid at the appropriate time, the person entitled to get it is entitled to interest. The applicant has filed certain additional bills in which interest and compound interest has been claimed. I am of the view that the applicant is not entitled to any compound interest.

5. In the circumstances, I am of the view that it will meet the ends of justice, if the respondents are directed to pay to the applicant simple interest @12% per annum on the arrears

from the respective date of entitlement. In the result the application is allowed in part. The respondents are directed to pay to the applicant simple @12% of pay and allowances consequent on the re-fixation of pay in terms of Annexure-C order from the respective dates on which the revised pay became payable, within a period of three months from the date of communication of this order. There is no order as to costs.



(AV HARIDASAN)
JUDICIAL MEMBER
13-10-1992

trs