

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.529/01.

Thursday this the 21st day of February 2002.

CORAM:

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

(By Advocate Ms. Saira Ravikumar)

V.S.

1. State of Kerala represented by the Chief Secretary to Government of Kerala, Secretariat, Thiruvananthapuram.
2. Union of India, represented by the Secretary, Ministry of Environment and Forests, Paryavaram Bhavan, CGO Complex, Lodhi Road, New Delhi. Respondents

(By Advocate Shri Renjith, G.P. for R-1)

The application having been heard on 21st February 2002 the Tribunal on the same day delivered the following:

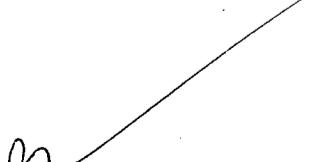
ORDER

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

The applicant who retired from service on 31.3.1997 is aggrieved that an amount of Rs.25,982/- is withheld from the DCRG payable to him. He is also aggrieved that although by order dated 14.4.98 the DCRG payable to him was enhanced to Rs.2,20,523/- the enhanced amount was not paid to him till 28.8.1998. The applicant has, therefore, filed this application for a direction to the respondents to release Rs.25,982/- to the applicant with interest at the rate of 18% w.e.f. 31.3.1997 till the date of payment and the interest on the arrears on account of revision of DCRG at the rate of 12% per annum from 14.4.1998.

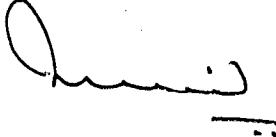
2. The respondents have filed a reply statement and an additional reply statement. It has been stated that the enhanced amount of gratuity was paid on 28.8.98 and Rs.25,982/- which was withheld was paid on 11.7.2001. The claim for interest on the withheld amount of Rs.25,982/- is resisted on the ground that the withholding was permitted by the Hon'ble High Court of Kerala in its order in O.P.No 21459/99, a copy of which is at Annexure A-2. Regarding the delay in disbursement of the enhanced gratuity till 28.8.98, it is contended that the applicant received the amount without any protest and therefore, no claim of interest would be admissible.

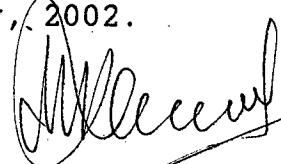
3. We have heard the learned counsel on either side. It is true that the Hon'ble High Court had in its order in O.P.21459/99 held that the Tribunal was not justified in directing payment of the whole amount and that a sum of Rs.25,982/- had to be withheld till a final decision is taken in respect of the dispute. Since no disciplinary proceedings against the applicant had ever been initiated and no sanction for such action as is required under the provisions of CCS(Pension) Rules has been granted , the respondents are bound to pay to the applicant interest on the amount of Rs.25,982/- from the due date till the date of payment. Withholding the sum was permitted by the Hon'ble High Court of Kerala to facilitate disciplinary proceedings if any instituted and recovery of loss if any, caused to the Government. Since no such proceedings has been initiated or intended to be taken while making payment, due interest has to be paid to the applicant for late payment.



4. In the light of what is stated above, we dispose of the application directing the respondents to pay the applicant interest at the rate of 12% per annum on the amount of Rs.25,982/- from 1.4.1997 till the date of payment on 11.7.2001. The payment as aforesaid shall be made available to the applicant within three months from the date of receipt of a copy of this order. No costs.

Dated the 21st February, 2002.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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APPENDIX

Applicant's Annexures:

1. A-1 : A true copy of order dated 21.4.1999 in O.A.No.1128/98 of the Central Administrative Tribunal, Ernakulam Bench.
2. A-2 : A true copy of the Judgement dated 22.2.2000 in O.P.No.21459/99 of the High Court of Kerala.

Respondents' Annexures:

1. R-1 : True copy of Govt. letter dated 2.6.2001.
2. R-2 : True copy of G.O.(Rt.) No.5777/01 dated 12.7.2001.
3. R-3 : True copy of letter dated 31.5.2001. (No.F2/1783/2001)
4. R-4 : True copy of statement of Principal Chief Conservator of Forests.

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