

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.612/1997

Tuesday this the 6th day of October, 1998.

CORAM

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

M.M.Francis,
Presently employed as Executive Engineer,
(Airport Authority of India)
National Air Ports Division,
Mennambakkam, Madras,
permanent address
Moonattumukhath House,
Pathirapally Post,
Alleppey Dist.

...Applicant

(By Advocate Mr. T.C.Govindaswamy)

Vs.

1. Union of India through the Secretary
to the Government of India,
Government of India,
Ministry of Urban Affairs and Employment,
New Delhi.
2. The Executive Engineer,
Central Public Works Department,
Trivandrum Central Electrical Division,
Trivandrum.
3. The Superintending Engineer,
(Electrical)
Bangalore Central Electrical Circle,
Central Public Works Department,
Bangalore.34.
4. The Chief Engineer,
(Electrical) South Zone,
Central Public Works Department,
Rajaji Bhavan, Chennai.
5. The Director General of Works,
Central Public Works Department,
Ministry of Urban Affairs and
Employment, New Delhi.

..Respondents

(By Advocate Mr. Mathews J Nedumpara)

The application having been heard on 18.9.98, the
Tribunal on the 6th day of October, 1998 passed the
following:

O R D E R

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

The applicant who joined service as a Junior
Engineer (Electrical) under the second respondent on
29.12.77 applied for the post of Assistant Engineer
(Electrical) in the National Airports Authority of India

and was selected for such appointment. He was relieved to take up the appointment on 25.7.89 and he joined the National Airports Authority of India on 26.7.89. Presidential sanction for permanent absorption of applicant in the National Airports Authority of India was conveyed vide order dated 4.7.91 (A.1). In terms of the order A.1 the applicant was to receive either pro-rata montly pension or a lumpsum amount in lieu of pension (100% commutation) and had to exercise his option within six months from the date of issue of the order. The applicant by letter dated 7.8.91 addressed to the second respondent opted to receive lumpsum amount in lieu of monthly pension, though he had already in his letter dated 10.1.90 and 4.5.90 opted to receive lumpsum payment in lieu of pension. However, the applicant submitted his pension papers on 22.10.91. The final orders in regard to payment of lumpsum pension to the applicant was unduly delayed despite representations for early settlement made by the applicant. The applicant received his retirement gratuity of Rs.9465/- by Demand Draft No.395125 dated 21.9.95 withholding an amount of Rs.1000/-. The lumpsum payment of an amount of Rs.74,340/- was received by the applicant only on 15.5.96 by cheque bearing No.563114 dated 15.5.96. There was inordinate delay in making the payment of pension and gratuity. The applicant on 28.6.96 requested the second respondent to pay him interest for the delayed payment as is due according to the rules. He followed it up by sending reminders. As the matter was under correspondence but without a final settlement, the applicant made a last reminder to the third respondent on 16.12.96 (A8), in which he indicated that if the matter would not be settled before 15.1.97, he would be

constrained to take appropriate legal steps. The third respondent addressed a letter to the Chief Engineer, South Zone, Bangalore on 29.1.97 stating that the claim of the applicant for interest was in order and requesting for early settlement as the payment was abnormally delayed for more than four years. In spite of this, the applicant's claim for interest on the delayed payment was not honoured and therefore, the applicant has filed this application for a declaration that he is entitled to interest at 18% per annum compounded annually on the delayed payment of lumpsum pension and retirement gratuity to be calculated with effect from 1.1.90 and till the date of payment and for appropriate direction to the respondents in that regard.

2. The respondents in their reply statement admitted that there has been delay in disbursement of the terminal benefits of the applicant but would contend that the applicant had also contributed towards the delay. Though it is admitted that the applicant had by his letter dated 7.8.91 exercised option to receive lumpsum payment in lieu of monthly pension, it is contended that necessary papers in proper forms were not submitted by the applicant and the papers complete in all respects were received only on 1.11.93. Another reason for not processing the pensionary dues of the applicant even after the request of the applicant was received on 7.8.91, stated in the reply statement is that as the applicant's pay had been refixed by Office Order dated 21.6.91 issued by the Superintending Engineer, CPWD, Madras based on the Director General (W) CPWD, New Delhi O.M.No.11014/1/91/ECVI dated 27.3.91 and as the operation of the O.M.dated 27.3.91 was stayed by the Madras Bench of the Central Administrative Tribunal, in an Original Application filed by the Junior Engineers'

Association, the matter of finalising the pensionary dues could not be processed further and that it was only after getting clarification the matter was processed. However, the respondents in para 6 of the reply statement concede that there is a delay in disbursing of the pensionary due of the applicant on the part of the respondents from 1993 onwards and that interest at normal rate would be paid to the applicant with effect from that date. The claim of the applicant for 18% interest on the lumpsum payment and gratuity with effect from 1.1.90 according to the respondents is unsustainable and interest is due to the applicant only from the year 1993 according to them.

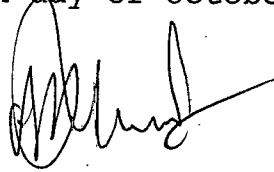
3. In view of the admission of the respondents that there had been delay on their part and of their contention that interest is due to the applicant only from the year 1993 onwards at the rate of 12% per annum, what are required to be decided is what is the date with effect from which the applicant is entitled to claim interest and what should be the rate of interest. A scrutiny of the pleadings and the documents on record, makes it abundantly clear that there has been undue and inordinate delay on the part of the respondents in finalising the case. On receipt of the option by the applicant to receive the onetime lumpsum payment in lieu of monthly ^{pension} pro-rata by his letter dated 7.8.91, the respondents should have finalised the same at least within a period of six months. The contention that the matter could not be processed in view of a stay order against the operation of the O.M. dated 27.3.91 has no merit at all. It is evident from Annexure.R.3 letter of the second respondent addressed to the Pay & Accounts Officer, South Zone, Central P.W.D. that the J.Es Association had challenged only recovery of pay and

allowances which had to be effected on implementation of the D.G's letter dated 27.3.91 and not on the granting of the higher grade as such and that the stay order was only against recovery. Under these circumstances there was absolutely no justification in keeping the settlement of the applicant's pension claim in abeyance. The contention of the respondents that it was only in the year 1993 that the correct papers were submitted by the applicant as is evident from A.7 and that therefore, for the delay upto that time, the respondents are not responsible is also untenable. If there was any defect in the form or if any further particulars or papers were required the concerned authority in the department should have on receipt of the option of the applicant on 7.8.91 called upon him to furnish the papers complete in all respects and have ~~been~~ processed the entire matter latest within a period of six months from the date of receipt of the option submitted by the applicant. The failure on the part of the respondents in doing so to say the least is unjustified and therefore the applicant has to be compensated for the loss by payment of interest atleast at the rate of 12% per annum. As the applicant's option for receipt of one time lumpsum payment was received in August, 1991 atleast on 1st of March, 1992 the respondents should have paid the lumpsum pension and gratuity to the applicant. For the delay, thereafter, the respondents are liable to pay to the applicant interest at the rate of 12% per annum. The claim for interest at the rate of 18% per annum compounded annually has to be rejected.

4. In the result, the application is allowed in part declaring that the applicant is entitled to get

interest on the delayed payment of gratuity and lumpsum pension with effect from 1.3.1992 and the respondents are directed to pay to the applicant interest on gratuity as also on the lumpsum amount of Rs.74,340/- at the rate of 12% (Twelve percent) per annum from 1.3.92 till the date on which the respective amounts were paid to the applicant. The payment as aforesaid shall be made as expeditiously as possible but at any rate within a period of two months from the date of receipt of a copy of this order. There is no order as to costs.

Dated this the 6th day of October, 1998.



A. V. HARIDASAN
VICE CHAIRMAN

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LIST OF ANNEXURES

1. Annexure A1 : A true copy of the Letter
No.A-35018/3/91-EC-VI dated
4-7-1991 issued by the fifth
respondent.
2. Annexure A7 : A true copy of the Letter
No.1(4)BCEC/96/682 dated
9-12-1996 issued by the
third respondent to the
second respondent.
3. Annexure A8 : A true copy of the representation
submitted by the applicant to the
third respondent dated 16-12-1996.

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