

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.367 of 1998.

Thursday this the 23rd day of November, 2000.

CORAM:

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

K.S. George,
S/o K.S. Devassia,
Retired Drugs Controller of India,
residing at: Kollappallil House,
Athirampuzha, Kottayam,
Kerala.

Applicant

(By Advocate Shri T.C. Govindaswamy)

Vs.

1. Union of India represented by the Secretary to the Government of India, Ministry of Health & Family Welfare, New Delhi.
2. Drugs Controller General (India), Nirman Bhavan, Maulana Azad Road, New Delhi - 110 011.
3. Assistant Drugs Controller of India, Central Drugs Standard Control Organisation, No.15/1 - Strand Road, Custom House, Calcutta.
4. Assistant Estate Manager, Government of India, Office of the Estate Manager, No.5, Esplanade East, Calcutta - 700 059.
5. Sri. G.N. Ray, Assistant Drugs Controller of India, Central Drugs Standard Control Organisation, No.15/1 - Strand Road, Custom House, Calcutta. Respondents

(By Advocate Shri K.V. Sachidanandan)

The application having been heard on 23.11.2000, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR A.M.SIVADAS, JUDICIAL MEMBER

The applicant seeks the following reliefs:

"(a) Declare that the withholding of Rs.28,698/- (Rupees Twenty eight thousand six hundred and ninety eight only) due to the applicant as claimed in Annexure A1 and a further amount of Rs.1000/- (Rupees one thousand only) from the applicant's retirement gratuity on account of an alleged dues of Rs.2968/- (Rupees Two thousand nine hundred and sixty eight only.) pertaining to the occupation of the government accommodation is arbitrary, discriminatory and unconstitutional.

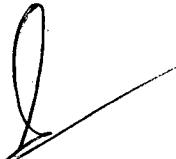
(b) Direct the respondents to pay forthwith, the amount of Rs.28,698/- (Rupees Twenty eight thousand six hundred and ninety eight only) with interest at the rate of 18% per annum, compounded annually and calculated with effect from 1.12.94 until full and final settlement of the same.

(c) Direct the respondents to refund the amount of Rs.1000/- (Rupees one thousand only) withheld from the applicant's retirement gratuity, with 18% interest per annum, compounded annually and calculated with effect from 1.6.94 until full and final settlement of the same.

(d) Declare that the applicant is not due any amount to the Government on account of occupation of a government accomodation and that the claim as evidenced by Annexure A15 is arbitrary, discriminatory, opposed to the mandatory principles of natural justice and hence unconstitutional.

(e) Direct the respondents to refund the excess recovery of Rs.2332.90/- (Rupees Two thousand three hundred and thirty two and ninety paise only) made from the applicant's salary as reflected in Annexure A15 with 18% compound interest calculated with effect from 1.6.94.

(f) Direct the respondents to pay the applicant, the arreas of pay consequent upon the applicant's in-situ promotion with effect from 1.4.91, in terms of Annexure A18 and also recalculate and pay the applicant's pension and other retiral benefits accordingly, with arrears thereof, with 18% interest compounded annually with effect from 1.4.1997 until full and final settlement of the same.



(g) Award costs of and incidental to this application.

(h) Pass such other orders or directions as deemed just, fit and necessary in the facts and circumstances of the case."

2. When the O.A. was taken up the learned counsel appearing for the applicant submitted that the amount due to him, the respondents have paid subsequent to the filing of the O.A. and what remains now is only the question of interest.

3. The applicant has prayed for 18% interest on the belated payment.

4. There is no dispute as to the fact that the amount due to the applicant was paid only after some delay. The respondents say that the delay has occurred in settling the applicant's claim due to lapse on his part since he did not submit "No Demand Certificate" and if the applicant had fulfilled all the requirements of the department well in time and when called for, the department would have settled the claim in time.

5. Before disbursing the amount, the applicant had to comply with certain formalities and those formalities cannot be forgotten. For the purpose of complying with those



formalities the concerned authority will have to direct the concerned employee for submission of "No Demand Certificate" etc. When the applicant himself has caused delay by not complying with all the essential formalities to be complied with, the respondents cannot be faulted with.

6. From Annexure R-3(G), it is seen that the Director General of Health Services directed the Assistant Drugs Controller to take immediate action for processing the pensionary benefits of the applicant. So, it is clearly seen that the department was not acting in a slow way. If there was any lethargy on the part of the applicant in complying with the essential formalities, the applicant should shoulder the consequence.

7. There is reason to believe that there was delay on the part of the applicant in submitting "No Demand Certificate" since the specific version of the respondents in the reply statement that the delay occurred due to the applicant's fault, is not denied by filing a rejoinder. In this circumstance, we do not think that there was any wilful delay on the part of the respondents in granting the amount due to the applicant. In that context, we do not find any reason to award interest.

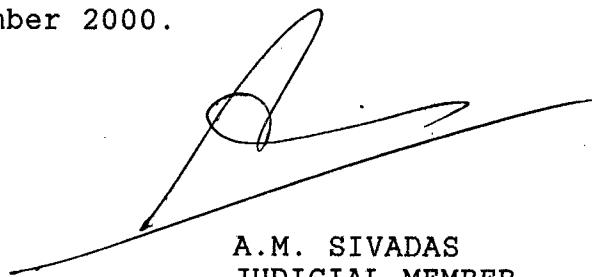
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8. Since the amount due to the applicant, the respondents have already paid, and is not entitled to interest, the O.A. is only to be dismissed. We do so. No costs.

Dated the 23rd November 2000.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

rv

List of Annexures referred to in the order:

Annexure A-1: A true copy of the letter dated 27.10.94 submitted by the applicant to the second respondent along with a copy of the Travelling Allowance Bill.

Annexure A-15: A true copy of the letter No. 1/537-G/Rent/Hostel/85 dated 9.9.96 issued by the fourth respondent.

Annexure A-18: A true copy of the order No. A.32022/6/91-St.I/CHS-VI(Pt.I) dated 28.2.97 issued by the first respondent.

Annexure R-3(g): True copy of letter No. A-26012/2/97-ND dated 11.6.98 of Section Officer (ND), DGHS, New Delhi to the 5th respondent.