

Central Administrative Tribunal Lucknow Bench Lucknow

Original Application: 340/2008

This, the 29th day of April, 2010.

Hon'ble Dr. A. K. Mishra, Member (A)

K.K. Bajpai, aged about 64 years, son of Late J.P. Bajpai, resident of D-120 A Awas Vikas Colony, Rajajipuram, District- Lucknow.

Applicant

By Advocate Sri D. Awasthi.

Versus

1. Union of India, through the Secretary, Department of Posts, Government of India, Dak Bhawan, New Delhi.
2. Chief Post Master General, M.P. Circle, Bhopal (M.P.)
3. Post Master Genral, Indore Region, Indore (M.P.)
4. Director Postal Services, Indore Region, Indore (M.P.)
5. Senior Superintendent of Post Offices Jabalpur Division, Jabalpur, Madhya Pradesh.

Respondents

By Advocate Sri K.K. Shukla.

Order

By Hon'ble Dr. A. K. Mishra, Member (A)

The applicant has challenged orders dated 9.12.2006, 26.9.2007 and 1.2.2008 of the respondent authorities in the matter of recovery of gratuity amount paid to him earlier when he was compulsorily retired and the interest there on. The letter dated 9.12.2006 communicated the decision of the competent authority about recoveries to be made from his final DCRG amount. Letter dated 26.9.2007 is the order of the appellate authority who rejected his appeal petition. Letter dated 1.2.2008 communicated the decision of the revisional authority who rejected his revision petition filed in this regard.



2. The applicant was working as a Laboratory-Technician under the respondent authorities. He was chargesheeted in disciplinary proceedings initiated against him and the penalty of compulsory retirement was imposed on him on 23.6.1994. On his compulsory retirement, DCRG amount of Rs. 26085/- was paid to him. The applicant challenged the penalty order before Jabalpur Bench of Central Administrative Tribunal and ultimately he was reinstated in service on 21.2.2002. The applicant retired from Government service on 30.6.2004 after attaining the age of superannuation. At this stage, a fresh sanction for payment of Rs. 104738/- towards DCRG was made subject to recovery of Rs. 26085/- paid to him earlier along with interest thereon. Accordingly a total interest amount of Rs. 28172/- was calculated applying the prevailing GPF rate of 12% and a sum of Rs. 54257/- was adjusted towards earlier payment of DCRG of Rs. 26085/- + Rs. 28172 towards interest there on.

3. The applicant has challenged the calculation of interest on the DCRG amount previously paid to him. At the time of hearing, the learned counsel for the applicant advanced two grounds: firstly, the interest should have been calculated @ 6% w.e.f. 4.6.1997, the date when the DCRG amount was paid earlier; secondly, it should have been assessed over the net amount of 1833/- which was paid to him earlier after adjusting the penal rent amount of Rs. 24,252/-payable by him.



4. The contention of the applicant is neatly captured in paragraph 5(v) relating to the grounds mentioned in the O.A. This paragraph is extracted below for better appreciation.

"(v) Because the opposite parties cannot recover the amount for twice. The recovery had already been done in the year 1996 when the amount of Rs. 26085/- (DCRG) was sanctioned and Rs. 24252 was recovered through ACG 67 dated 5.12.1996 and difference (Rs. 26085-Rs. 24,252 = Rs. 1833) was paid to him on 3.6.1997. They are entitled to recover interest @ 5% on Rs. 1833/- w.e.f. 4.6.1997."

5. From the application, it is clear that he has no grievance about recovery of interest but his main contention is that the calculation of the interest has been wrongly made by applying a higher rate of interest which is not applicable and secondly, the amount on which interest is due is the net amount paid to him not the full DCRG amount of Rs. 26085/-.

6. At the time of hearing, the learned counsel for the applicant submits that the appellate authority in his letter dated 26.9.2007 has referred to Appendix 9(6) of CCS Pension Rules which prescribes interest rate of 6% per annum. He placed reliance on the letter dated 24.12.1976 of Government of India which speaks about calculation of interest at 6% per annum.

7. The learned counsel for the respondents submits that the rate of interest of 6% as referred to in the



above mentioned GO of Government of India was made long back in the year 1976 when the prevailing rate was 6% and this low rate of interest was not applicable in the relevant period.

8. The appellate authority in his order dated 26.9.2007 has mentioned about the provision contained in Appendix-9 paragraph 6 (A) of CCS Pension Rules printed at page 394 of Swamy's Compilation 17th Edition 2005. It refers to the Government of India decision communicated on 24.12.1976 which speaks of recovery of DCRG amount with interest at adhoc rate of 6% per annum. But the same decision was further modified in Government of India letter dated 30th March, 1978 described under paragraph 6 (B) of Appendix-9 at the next page 395 of Swamy's Compilation, where it was clearly stated that if the amount of DCRG would be retained by the employee till his regular retirement simple interest as prescribed for GPF deposits for the corresponding period would be applicable and the amount so retained would be adjusted against the final death-cum- retirement gratuity payable at the time of regular retirement.

9. 6% rate of interest could have been invoked if the applicant had deposited the DCRG amount received by him immediately after his reinstatement. But he chose to retain this amount. Therefore, the clarification given in Appendix-9(6) (B) will be applicable in his case. Accordingly, simple interest at prevailing GPF rate has been calculated and the total amount of DCRG +



- 5 -

interest has been recovered from the final DCRG sanctioned to him.

10. As regards, the second point that the interest should have been calculated only on the net amount of Rs. 1833 not the full amount of DCRG Rs. 26085/-, I find that the argument of the learned counsel for applicant is misconceived. It does not appeal to elementary mathematical logic. The applicant was to pay to the government Rs. 24252/-, a liability which he carried without making payment. Now, he received 26085/- towards DCRG. Out of the receipt of this full amount, his liability towards rental amount was discharged. In other words, he received 26085/- and paid back 24252/- to the Government on account of rental dues which he was supposed to pay. In these circumstances, he can not claim that he received only Rs. 1833/- towards DCRG . As discussed, he received the full amount of Rs. 26085/- and discharged his liabilities towards rent from that amount. Therefore, the respondents were correct in holding that 26085/- was paid to him towards DCRG and correctly calculated interest there on.

11. In view of the discussions in the foregoing paragraphs, I do not find any merit in this case, which is accordingly dismissed. No costs.

A. K. Mishra 29/04/10
(Dr. A. K. Mishra)
Member (A)