

Central Administrative Tribunal Lucknow Bench Lucknow

Original Application No. 33/2009

Lucknow, this the 7th day of August, 2009

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

Narendra Kumar Pandey, aged about 69 years, son of Late Shri Jeevat Vandhan Pandey, resident of House No. 606, Azad Mohal, Sadar Bazar, Lucknow (Lastly employed as Lower Division Clerk in the Central Command Stationery Depot, Lucknow 226002).

Applicant.

By Advocate Sri R.C. Singh.

Versus

1. Union of India, through the Secretary, Ministry of Defence, New Delhi.
2. Major General Army Ordnance Corps, Headquarters Central Command, Lucknow.
3. Commanding Officer, Central Command Stationery Depot, Lucknow.
4. Principal Controller of Defence Accounts (Pensions), Allahabad.
5. Joint Controller of Defence Accounts (Funds), Meerut.

Respondents.

By Advocate Sri K.K. Shukla.

ORDER

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

The applicant has challenged the letter dated 1.7.2008 on the ground that his pensionary benefits which were released after considerable delay should carry interest. He has prayed to set aside this order and also for a direction to the respondents to pay interest on his retiral dues for the period of delay.

2. The applicant was dismissed from service on 11.5.1993 and the dismissal order was confirmed by the appellate order dated 7.2.1994. These orders were quashed vide judgment and order dated 23rd December 1999 of this Tribunal in O.A. No. 171/94. The respondents filed a Writ Petition against this judgment of the Tribunal before the Allahabad High Court (Lucknow Bench) which dismissed the petition and directed the respondents in the O.A. to pay the retiral dues of the applicant within two months from the date a certified copy of the order was produced before them.



3. It is the case of the applicant that even in spite of such order from the High Court, the respondents took some more time and made the payment towards arrear of pension and gratuity on 1.1.2009. Even here, a mistake was committed; though the pension was payable from 1.2.1996, a wrong entry was made in the pension payment order making it payable from 1.2.1997.

4. The applicant claims that he is entitled to payment of interest from the date of his superannuation as the illegal dismissal order was set aside and the respondents were directed to treat him to be in continuous service till the date of his superannuation.

5. The respondents have submitted that the retiral dues of the applicant became payable only after the orders of High Court were passed on 28th September, 2007. The applicant was asked in the impugned letter dated 1st July, 2008 to report with his wife before the authorities and sign the pension documents on 3rd July 2008. It took some time for them to go through the procedural requirements and the pension payment order was issued on 12.11.2008 after getting the sanction from the Ministry of Defence on 10.6.2008 and the concurrence from the Audit Officer as well as the Principal Controller of Defence Accounts. There was no inordinate delay on the part of the respondents to release the pension dues in compliance with the direction of the Hon'ble High Court; as such, respondents were not liable to pay any interest amount. The counsel for the respondents submitted that he would file citations in support of his contention that no interest was payable in respect of legitimate delay in paying retiral dues. But he has not filed any such citation so far.

6. The learned counsel submitted the decision of Supreme Court in the case of **State of Kerala and Others Versus M. Padmanabhan reported in AIR 1985 SC 356** to the effect that the respondent authorities (in this case State of Kerala) were liable to pay penal interest for the delay beyond two months from the date of retirement. He also cited the judgment of Allahabad High Court in **Krishna Mohan Verma versus State of U.P. and others**



reported in 2006 (24) LCD 179 to the effect that the authorities which did not take action to comply with the direction of Court because of their negligence were liable to be taken to task.

7. However, I find that in this case a specific direction was given by the Hon'ble High Court in its order dated 28.9.2007 that the retiral dues of the applicant should be paid within a period of two months from the date a certified copy of that order was produced. Relevant portion of the order is extracted below:-

"We are of the view that there is no illegality or infirmity in the impugned judgment and order passed by the Central Administrative Tribunal.

The writ petition is dismissed.

The petitioners are directed to pay the retiral dues to the opposite party No. 1 within two months from the date a certified copy of this order is produced."

In other words, the respondents had an obligation to release the retiral dues within two months from the date of receipt of a copy of this order of the High Court. Therefore, non-release of retiral dues after expiry of two months would attract interest on the retiral dues for the period of delay. The respondents are therefore, directed to ascertain the period that lapsed after expiry of two months from the date of receipt of copy of the order of the Hon'ble High Court and pay interest to the applicant at provident fund rates applicable for that period.

8. The O.A. is accordingly disposed of. No costs.


(Dr. A. K. Mishra)
Member (A)