

Central Administrative Tribunal, Lucknow Bench,

Lucknow

Original Application No. 163/2009

This the 13th day of May, 2010

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

Mata Prasad Yadav, aged about 85 years, S/o Sri Pancham Ram Yadav, R/o 12/253, Indira Nagar, Lucknow.

.....Applicants

By Advocate: Sri S.P. Singh.

Versus

1. Union of India through the Secretary, Ministry of Defence, Government of India, New Delhi.
2. Principal Controller of Defence Accounts (Pensions), Draupadi Ghat, Allahabad.

.....Respondents

By Advocate: Sri D.S. Tiwari.

ORDER

This Application has been filed with a prayer for a direction to the respondent-authorities to pay him interest @ 12% in respect of delay in release of arrears of pension.

2. Brief facts of the case are given below:

The applicant is an Ex-Armed Forces employee who, after retirement from defence forces, was appointed to a civilian post in Civilian Defence Organization on 22.5.1971. He retired from civilian post on 31.7.1992 on attaining the age of superannuation. The Fifth Central Pay Commission recommended that a minimum pension amount of Rs. 1275/- per month should be paid to all the pensioners w.e.f. 1.1.1996, but the applicant continued to receive

civilian pension @ Rs. 748/- per month and he made representations on 11.9.2004, 23.2.2005 and 24.6.2005 for revision of civilian pension amount and also for payment of arrears dues. His pension was revised on 25.7.2005 and all arrears were paid to him thereafter.

3. The applicant made representations on 11.2.2008 and 23.9.2009 claiming interest on delayed payment of arrears of pension dues, but those were not allowed; hence this Application.

4. At the time of hearing, learned counsel for the respondents submits that there was doubt whether the minimum pension amount prescribed under Pay Commission recommendations would apply to an employee, who was getting pension from two different sources. In the present case, the applicant was getting pension from Defence Forces and he was also getting civilian pension for his service in the civilian establishment. According to O.M. no. 45/86/97/P&W (A) Part II dated 27.7.1997 it was prescribed that the floor limit of Rs. 1275/- would apply to the total of all pensions received by an employee. Subsequently, the instructions were modified vide O.M. no. 38/38/02 P & PW (A) dated 23.4.2003 where it was provided that the floor amount of Rs. 1275/- would be separately made applicable for military and civilian pensions. Accordingly, all the Pension Disbursing authorities were instructed on 15.9.2003 to take appropriate action. On getting the representation from the applicant, the civilian pension of the applicant was revised on 25.7.2005 and payment of arrears was made immediately thereafter. In this background, he contended that there was no undue delay in acting upon the representation of the applicant and paying him arrears of



pension. Further, he drew my attention to the O.M. No. 38/64/98-P. & PW (F) dated 5.10.1999 which shows that the interest is to be paid only in respect of DCRG amount and no interest is to be paid either for arrears of pension or for leave encashment/Group Insurance amount.

5. For better appreciation of case, O.M. dated 5.10.1999 reads as under:


- (a) *All pensioners' dues are to be settled by strictly following the procedures laid down in Rule 56 to 76 of CCS (Pension) Rules, 1972.*
- (b) *Wherever delays are anticipated, provisional pension should be sanctioned immediately.*
- (c) *Any delay in processing of pension resulting in pension not being authorized on the last working day of retirement of the Government servant, should be reported by the Head of Office of the next higher authority who would watch the settlement of delayed cases.*
- (d) *In respect of delayed payment of gratuity wherever it results in payment of penal interest at the rate applicable to GPF deposits under Rule 68 of CCS (Pension) Rules, 1972, Secretary of the Administrative Ministry or Department would initiate action to fix responsibility at all levels to recover the amount from the concerned Dealing Official, Supervisor and Head of Office in proportion to their salary by following the prescribed procedures for the purpose. This should be strictly enforced with immediate effect.*
- (e) *Once it has been decided to pay gratuity, the amount should be paid immediately pending a decision regarding payment of interest. This would reduce the interest liability, if any, on payment of delayed gratuity.*
- (f) *In the matter of delayed payment of leave encashment, the Department of Personnel & Training in their note, dated 2.8.1999 has clarified that there is no provision under CCS (Leave) Rules for payment of interest or for fixing responsibility. Moreover encashment of leave is a benefit granted under the leave rules and not a pensionary benefit.*
- (g) *In the matter of CGEGIS, the Department of Expenditure, Ministry of Finance in their U.O. No. 709/E.V/99 dated 6.8.99 has clarified that payment under CGEGIS cannot be termed as terminal benefit. As payments under this Scheme are made in accordance with the Table of Benefit which takes into account interest upto the date of cessation of service, no interest is payable on account of delayed*

payments under the Scheme. They have also clarified that CGEGIS payment cannot be withheld and no Government dues can be recovered from the accumulation except the amount claimed by the financial institution as due from the employee on account of loans taken for house building purpose."

6. A perusal of this letter shows that the interest is payable in respect of delayed payment of gratuity under Rule 68 of CCS (Pension) Rules, 1972; therefore, the interest is payable only for unnecessary delay in release of gratuity amount. As regards other claims including arrears of pension, it has been stipulated that the delay should be avoided and, there should be effective monitoring in respect of processing of pension amount.

7. In the present case, the minimum pension amount was not released in view of specific Government instructions, which were, subsequently modified on 23.4.2003. The applicant himself, according to his own version, made the first representation on 11.9.2004 followed by reminders dated 23.2.2005 and 24.6.2005. The respondents admit of having received the representation dated 24.6.2005 and having taken expeditious action on the representation. Following the modification of the earlier instructions of the Government, his pension was revised on 25.7.2005 and the arrears were paid thereafter. Therefore, I do not find any deliberate and inordinate delay in this matter which could be attributed to administrative lapses as to call for award for penal interest, particularly when there are no provisions in the CCS (Pension) Rules.

8. In these circumstances, it is difficult to allow his prayer for payment of interest having regard to the



government instructions communicated in the O.M. dated 5.10.1999 on the subject and statutory provisions.

9. In the result, the O.A. is dismissed.


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

Girish/-