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CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

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September 21, 1989

Registration O.A. No. 49 of 1987

Vijai Narain Singh Applicant
Vs.

Union of India and ors ... Respondents

Hon' Mr. D.K. Agrawal, J.M.

This application under section 19 of the Administrative Tribunals' Act, 1985, has been filed by the above named applicant, a retired Income Tax Officer Grade II on 19-2-1987, for directions to the respondents to pay interest on delayed payments of amount of gratuity, G.P.F., Pension and commuted pension. The applicant has further claimed Rs.2277/- on account of leave salary for the period from 16-8-81 to 15-11-81, Rs.443/- on account of leave encashment and Rs.750/- on account of a T.A. Bill.

2. The respondents have denied their liability to pay interest on the amounts of gratuity, G.P.F., Pension and commuted pension. They have urged that the delay was caused on account of bona-fide processing of papers and not otherwise. They have further alleged that the leave salary for the period from 16-8-1981 to 15-11-1981 was not due to the applicant under Rule 30(2) of the revised Leave Rules, 1972. As regards leave encashment, they have urged that according to the leave account of the Officer ^{2 2} 150 days unutilised earned leave was due to him in respect of which payment has been

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made and, therefore, no further payment is due to him. As regard to the T.A. bill, the contention of the respondents is that the T.A. bill was never received at their end.

3. Having heard the learned counsel of the parties, it appears that the leave salary for the period from 16-8-81 to 15.11.81 has been wrongly withheld by the respondents. The reason is that Rule 30(2) of the Revised Leave Rules, 1972 reads as under as quoted at page 3 of the rejoinder affidavit:

" Where a Government servant who has been granted commuted leave resigns from service or at his request permitted to retire voluntarily without returning to duty, the commuted leave shall be treated as half pay leave and the difference between the leave salary in respect of commuted leave and half pay leave shall be recovered.

Provided that no such recovery shall be made if the retirement is by reason of ill health incapacitating the government servant for further service or in the event of his death. "

In view of the proviso quoted above, the applicant was entitled to be sanctioned commuted leave on full pay, if due to him. The fact that 182 days half pay leave was not due to the applicant, has not been urged by the respondents. Therefore, the conclusion is that, half pay leave of 182 days was due to the applicant. If so, he was entitled to 91 days commuted leave (commuted leave being due for 50% days of the half pay leave), ² Notwithstanding the fact that the applicant had sought voluntary retirement because the retirement was necessitated by reason of ill health.

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As such, despite the voluntary retirement, the applicant was entitled to commuted leave of 91 days, within the meaning of the proviso quoted above. Therefore, he is entitled to Rs.2277/- as salary (the quantum of salary having not been disputed).

4. As regards the leave encashment, the respondents have pleaded in para 8 of their counter affidavit that only 115 days unutilised earned leave was due to the applicant on the date of his retirement, payment in respect of which has already been made to him. The said allegation has not been rebutted on behalf of the applicant. Therefore, it has to be accepted that the applicant has been paid salary for unutilised earned leave due to him on the eve of his retirement. The applicant has failed to bring any document or record to show had the amount of Rs.443/- was still due to him as leave encashment.

5. The applicant's claim for T.A. bill of Rs.750/- has also not been substantiated inasmuch as the respondents have denied having been received the T.A. bill. No proof has been furnished by the applicant about the submission of the T.A. bill and its contents. However, the claim of the applicant in this regard cannot be rejected on this ground. The applicant may submit his T.A. bill to the respondents, if permissible under rules, who after due process shall pass orders in accordance with the rules within one month of the submission of the T.A. bill.

6. The main question is about the payment of interest on the amounts of gratuity, G.P.F., Pension

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and commuted pension as alleged in para 6 (g) (i to iv) of the application. In this regard the plea of the respondents as contained in para 7 (ii) of their counter affidavit, appears to be reasonable. They have urged therein that an objection was raised by I.A.C. Office on 17-2-82 and the objection was removed by the applicant on 27-2-82. This fact has not been rebutted in the rejoinder affidavit. If so, the period of two months, as laid-down by Hon'ble Supreme Court of India, in the case of State of Kerala and ors Vs. M. Padmanabhan Nair, A.I.R. 1985 SC 356, will begin to run w.e.f. 28-2-82. Thus, the applicant will be entitled to payment of interest on delayed payment w.e.f. 1-5-82. As to rate of interest, Hon'ble Supreme Court has laid-down in the above noted case that the same is payable at the market rate. The official market rate of interest is 12%. The Hon'ble Supreme Court was pleased to grant interest @ 12% in the aforesaid case. Therefore, I hold that the applicant will be entitled to the interest @ 12% on the amount mentioned below for the period mentioned against each item:

| S.No. | Item | Amount | Period from | To |
|-------|------------------|----------|-------------|-----------|
| (i) | Gratuity | 16,926/- | 1-5-82 | - 24-5-83 |
| (ii) | G.P.F. | 31,517/- | 1-5-82 | - 6-1-83 |
| (iii) | Pension | 13,338/- | 1-5-82 | - 13-5-83 |
| (iv) | Commuted Pension | 23,022/- | 1-5-82 | - 1-8-83 |

7. The application is partly allowed. The respondents are directed to pay interest as mentioned

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in para 6 of this judgment, also the leave salary as mentioned in para 3 of the judgment within two months hereof. The application in regard to claim for leave encashment is dismissed. In regard to T.A. bill, the applicant, as directed above, shall submit the bill to the respondents, who within 30 days of the receipt of the same dispose it off in accordance with the rules on the subject. There will be no order as to costs.

Dr. C. S. Chandra
MEMBER (JUDICIAL) 22.9.89

(sns)

September 21, 1989

LUCKNOW.