

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

Original Application No. 542/2010

This, the 9th day of September, 2011

**HON'BLE JUSTICE ALOK KUMAR SINGH, MEMBER (J)**

Krishna Kant Shukla aged about 61 years son of late Sri Bindeshwari Prasad Shukla r/o. 141 Sector X, Barra II Kanpur 27 (retired PRI Kanpur, Cantt.)

Applicant.

By Advocate: Sri R.S. Gupta

Versus

1. Union of India, through the Secretary Department of Posts, New delhi.
2. Director of Accounts (Postal) U.P.Circle, Aliganj, Lucknow
3. SSPOs, Kanpur City.

Respondents.

By Advocate: Sri S.L. Mishra

**ORDER (Dictated in Open Court)**

**By Hon'ble Shri Justice Alok Kumar Singh, Member (J)**

This O.A. has been filed for the following reliefs:-

- a) That this Hon'ble Tribunal may kindly be pleased to direct the Ops to issue PPO after granting pension on the basis of pay after promotion and pay arrears of pension along with interest @ 24%.
- b) Grant and pay arrear of pension and DCRG on the basis of pay after promotion along with interest @ 24%
- c) Allow interest @ 24% on arrears of pay Rs. 1,07,233/- paid to the applicant on 25.9.2010 and interest on Rs. 25,530/- arrear of leave encashment w.e.f. 1.9.2009 to 26.9.2010 @ 24%
- d) Any other relief deemed just and proper in the circumstances of the case with cost of OA. in favour of the applicant.

2. The case of the applicant is that he retired on 31.8.2009. Earlier, he was not given BCR promotion for which he filed O.A. No.134/2010, which was decided on 15.4.2010, directing the

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respondents to decide the pending representation in respect of the above matter.

3. In furtherance of that order, a DPC held under the aegis of the respondents on 26.8.2010 and on the basis of the recommendations for giving promotion to the applicant under BCR scheme, the same was given to him w.e.f. 1.7.2003 by passing the order dated 1.9.2010. Concededly, all the arrears have also been paid but the present O.A. has been filed because no interest was paid despite the fact that the respondents themselves were responsible for not holding the DPC within time entailing delayed payment of arrears.

4. From the other side, the claim has been contested by filing a detailed C.A. saying that the interest is not payable because the DPC has not recommended so.

5. In the Rejoinder Reply, the most of the pleadings contained in the O.A. have been reiterated.

6. Heard the learned counsel for the parties and perused the material on record.

7. As would be evident from the perusal of the aforesaid pleadings, the only dispute is in respect of non-payment of interest.

8. There is no quarrel on the point that the applicant was retired on 31.8.2009. It is also not disputed that he was entitled to BCR promotion w.e.f. 1.7.2003. In fact, he became due for promotion w.e.f. 22.2.2003 after completion of 26 years of service. Be that as it may. But the respondents themselves have given him promotion w.e.f. 1.7.2003 on the basis of the recommendations made by the DPC held on 26.8.2010. It is also worthwhile to mention here that the respondents did not give the aforesaid promotion on their own. It was only when an order was passed by this Tribunal in earlier O.A. No. 134/2010 on 15.4.2010 for deciding

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the representation in this regard within a stipulated period of two months, then the respondents immediately held a DPC on 26.8.2010 which favourably recommended the promotion and within 4-5 days, the representation was decided on 1.9.2011 giving him promotion retrospectively w.e.f. 1.7.2003.

9. From the above facts, it is obvious that after completion of 26 years of service, though the applicant was entitled for promotion in the year 2003 itself but for the reasons best known to the respondents, it was not given. Nevertheless, as mentioned above, the promotion has now been given retrospectively w.e.f. 1.7.2003. That means, the applicant was entitled to get this promotion at least w.e.f. 1.7.2003. Therefore, undoubtedly, the respondents are responsible for causing this delay and depriving the applicant from getting his due for a long period of about 7 years. Moreover, as already mentioned hereinbefore, they did not give it on their own. They gave it in furtherance of the aforesaid order passed by this Tribunal in O.A. No.134/2010. In other words, when the applicant approached this Tribunal for redressal of his grievance and the respondents found themselves cornered, then only they rectified their mistake. Therefore, from any angle, it is the respondents who were responsible for the delay in payment of the arrears consequent to the promotion of the applicant w.e.f. 1.7.2003 under BCR scheme.

10. Now, the question is as to what should be the rate of interest. In para 4.3 of the O.a., the applicant has sought market rate of interest @ 24%. Its reply has been given in para 13 of the Counter reply, wherein nothing has been said in respect of market rate of interest. The only objection is that the departmental promotion committee has not recommended it. This explanation cannot be said to be a logical. A departmental committee only considers and recommends for promotion and not for payment of

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arrears or interest thereon. Probably the respondents did not have any justification for non-payment of interest that is why this flimsy and lame excuse is being made. Be that as it may.

11. Coming back to the rate of interest, suffice is to mention that nothing is on record to show that the present market rate is 24%. Otherwise also, it is a matter of cognizance that such exorbitant rate of interest is not prevalent in the market. The nationalized bank and other reputed and registered banks also do not give such a higher rate of interest. Even the rate of interest which is offered to Senior Citizen does not go beyond 9% or 10%. Keeping in view the entire facts and circumstances of this case, this Tribunal is of the view that the rate of interest payable on Provident Fund which is normally between 8 and 9% would be justified to be paid to the applicant.

12. Both the points are decided accordingly in favour of the applicant.

13. The O.A. is accordingly partly allowed with a direction to the respondents to pay interest which is payable to the postal employees in respect of G.P.F. which in any case should not be less than 8.50% per annum. This interest would be payable retrospectively w.e.f. 1.7.2003. On the request of the learned counsel for the applicant, it is further directed that the payment of interest be made expeditiously preferably within 4 months from the date of certified copy of this order is produced. No order as to costs.

  
(Justice Alok Kumar Singh) 9.9.11  
Member (J)

HLS/-