

Central Administrative Tribunal, Lucknow Bench, Lucknow
Original Application No. 395/2003
this the 19th day of September, 2003

HON'BLE SMT. MEERA CHHIBBER, JM

K.N.Srivastava aged about 61 years son of Sri G.C. Srivastava resident of Munnavar Bagh, Charbgh, Lucknow.

...Applicant

By advocate: None

Versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, hazratganj, Lucknow.

...Respondents

By Advocate: Sri R. Singh B/h for Sri A.K. Chatruvedi

ORDER

SMT. MEERA CHHIBBER, JM

This matter was listed on 29.8.2003 when court had recorded that question of maintainability of the O.A. would be decided on the next date i.e. on 17.9.2003. : This order was passed in presence of applicant himself Yet on 12.9.2003 neither applicant appeared nor his counsel therefore, the objection of the respondents was heard and after perusing the pleadings, orders are being passed by attracting Rule 15(1) of the CAT (Procedure) Rules, 1987.

2. By this O.A. applicant has sought a direction to the respondents to pay interest @ 18% per annum on account of amount paid to the applicant from the date of accrual to the date of payment.

3. It is submitted by the applicant that he was illegally transferred from Lucknow to Jaunpur vide order dated 10.4.1991. He challenged it by filing O.A. No. 231/1995. O.A. was decided on 29.11.96 quashing the said order and directed the respondents to decide the matter regarding payment of salary w.e.f. 16.7.1991



onwards.

4. Pursuant to it respondents paid him 1,24,456 but his period of leave without pay, leave at half of the average pay has not been regularised. He again filed O.A. No. 178/99 praying therein that the entire period be decided as on duty from 1.8.91 to 12.12.96 and sought arrears of salary.

5. The second O.A. was decided on 8.3.2002 with the direction to verify the period during which applicant remained on leave without pay, half pay leave and leave on average pay. The period from 1.10.91 to 6.1.93 and period from 16.5.94 to 31.10.94 has already been treated on duty.

6. Pursuant to this judgement, respondents issued an order dated 29.8.2002 justifying the payments already made (Annexure 2). Applicant filed Contempt Petition No. 4/2003 which is still pending. Respondents have not paid any interest therefore, he gave representation (Annexure 3) but that has not been decided till date, therefore, finding no other option, he had to file present O.A. for seeking interest on the payment made to him for the intervening period.

7. Counsel for the respondents submitted that this O.A. is not maintainable as applicant had filed two OAs earlier and in both the OAs he had claimed payment of salary with interest @ 18% per annum but in none of the OA, Tribunal had granted him interest therefore, this O.A. for claiming interest on amount already paid to him is not sustainable as it would be barred by resjudicata. Moreover, his contempt petition is also pending on this very point. Counsel for the respondents placed a copy of judgement dated 29.5.96 in O.A. No. 231/95 for court's perusal as the same was not filed by the applicant. I had also called for C.P. No. 4/2003 in O.A. No. 178/99.



8. Perusal of both the judgements as referred to above show that in first O.A. No. 231/95 as well as in Second O.A. No. 178/99, applicant had categorically claimed interest @ 18% per annum but in none of the O.As Tribunal had granted interest to the applicant. The law is well settled by now that if a relief is specifically / asked for and the same is not granted by the Court , it is deemed to have been rejected. It is seen in the judgement of 1st O.a. this Tribunal had directed the respondents to verify the period and decide about his period of duty during which applicant remained on madeical leave etc. as per rules and make payment of the amounts which applicant may be found entitled under the rules. The operative direction was to pay the entire amount within a period of one month after the period is decided. It is thus clear that no direction was given for interest. Similarly in second O.A. also, Tribunal did not grant any interest even though the same was specifically prayed for. Therefore, I feel that the applicant cannot go on filing OAs one after another for the same relief specially when his contempt petition filed in O.A. No. 178/99 is also still pending in which the next date is fixed for 24.9.2003.

9. In view of the above discussion, I would agree with the respondents that the present O.A. is not maintainable and the same is accordingly dismissed at the admission stage itself with no order as to costs.


Member (J)

Lucknow: DATED:

HLS/-