

CENTRAL ADMINISTRATIVE TRIBUNA LUCKNOW BENCH LUCKNOW

Original Application No. 36/2006.

Lucknow this, the ^{11th} day of July, 2008

HON'BLE MR. M. KANTHAIAH, MEMBER (J)

**Babu Nandan Singh,
Aged about 69 years,
Son of Sri Ram Das Singh,
Resident of Village Pure Raiju,
Pargana and Tehsil Sadar, District Pratapgarh.**

Applicant.

By Advocate: Sri P.K. Shyak for Sri R.K. Upadhyay.

Versus

1. Union of India through
the Secretary Communication (Postal),
New Delhi.
2. Senior Superintendent of Post Offices
Pratapgarh.

Respondents.

By Advocate: Sri S. P. Singh.

Order

By Hon'ble Mr. M. Kanthaiah, Member (J)

The applicant has filed the original application with a prayer to quash the impugned order dated 15.6.2005 (Annexure 1) denying the benefit of interest to the applicant on the amount of arrears paid to him and with a direction to the respondent No. 2 to provide interest on the amount of arrears paid to the applicant from the due date up to the actual date of payment.

2. The respondents have filed counter affidavit denying the claim of the applicant stating that the applicant is not entitled for any interest on the arrears paid to him after disposal of the Original Application No. 167/93 dated 19.4.2001.

3. The applicant has filed rejoinder denying the stand taken by the respondents and also reiterated his plea in the original application.

4. Heard both sides.

5. The point for consideration is whether the applicant is entitled for the relief in respect of interest on the arrears paid to him after disposal of his original application No. 167/93.

6. The admitted facts of the case are that while the applicant working as Postal Assistant under the Respondent No. 2, he was imposed a punishment of recovery of an amount of Rs. 5000/- vide punishment order dated 26.12.1990. The appeal filed by the applicant was rejected by the appellate authority on 28.10.1991, In the revision before Member (P), Postal Service Board, New Delhi, the punishment of the appellate authority was modified reducing the punishment of recovery from an amount of Rs. 5000 to 2500/- vide order-dated 21.6.93. Against the same, the applicant filed O.A. 167/93, and the same was allowed by common order in O.A. No. 167/93 and O.A. No. 652/92 dated 19th April 2001. In O.A. 167/93, the applicant also claimed other reliefs in respect of deemed promotion w.e.f. 1.10.1991 after quashing the orders of punishment and also to allow him to cross efficiency bar in the scale of Rs. 1400-2300 from the due date but, the Tribunal allowed the main claim of the applicant in respect of quashing of punishment and further stated that the punishment imposed on the applicant amounting to recovery would not come in the way either of crossing efficiency bar or of promotion in the case of the applicant. Annexure A-2, dated 19.4.2001 is the copy of the common order in O.A. 167/93d and O.A. No. 652/92.

7. In pursuance of the above orders of the Tribunal, the respondents are granted the benefit of promotion in HSG II cadre under BCR Scheme to the applicant w.e.f 1.10.91 and an amounting of Rs. 2,80,903/- was also paid to him towards arrears. Annexure A-3 is the copy of the order of promotion dated 5.2.2004. Subsequently, an amount of Rs. 5720/- was paid to the applicant towards difference of leave encashment and Annexure A-4 dated 4.1.2005 is the copy of the said order.

8. Thereafter, the applicant got issued legal notice on 2.5.2005 claiming interest on difference amounts i.e. difference of leave encashment, DCRG, pension etc., and also claim damages from the respondents. After considering the said notice of the applicant, the respondents authority has passed orders

covered under annexure A-1 dated 15.6.2005 stating that applicant is not entitled for interest as claimed by him and against the said rejection order, the applicant filed the present original application.

9. It is not in dispute that the respondents have not granted promotion to the applicant in view of punishment imposed by the respondent No. 2 and which was later modified to Rs. 2500/- by the revision authority under his order dated 21.6.90. Thereafter, the applicant filed O.A. 167/93 against the orders of the punishment imposed against him and also sought deemed promotion w.e.f. 1.10.91 and also to cross efficiency bar in the scale of Rs. 1400-2300/-. But the Tribunal allowed the claim of the applicant in respect of claim for quashing the punishment imposed against the applicant and in which, the Tribunal has categorically stated amounting to recovery would not come in the way either of crossing efficiency bar or of promotion in the case of the applicant. After disposal of the said O.A., the respondents have ordered promotion of the applicant in HSG II under BCR Scheme w.e.f. 1.10.91 and also stated he would be paid all consequential benefits i.e. payment of arrears of pay and allowances with retrospective date i.e. 1.10.91, (Annexure 3) and accordingly they have made payment of arrears of pay and allowances and other differential amounts which he was entitled.

10. But it is the case of the applicant that he is entitled for interest on the differential amount paid to him towards pay and allowances, leave encashment and ~~DCRG~~ etc. from the date of promotion i.e. 1.10.91 till the date of payment which made in the year 2005. Admittedly, the promotion was given to the applicant in the year 2004 i.e. orders covered under Annexure A-3 dated 5.2.2004. Though he was entitled for consequential benefits i.e. payment of arrears of pay and allowances with retrospective effect i.e. 1.10.1991, such orders have been issued only after giving promotion covered under Annexure A-3 order dated 5.2.2004 and immediately, thereafter all the differential amount in respect of payment of arrears of pay and allowances, leave encashment etc. have been paid to the applicant and it is not the case of the applicant that there was any delay in such payment after granting promotion to him. When the promotion orders have been issued promoting the applicant in HSG II cadre under BCR Scheme on 5.2.2004, granting of interest on such differential amount from 1.10.1991 i.e.

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date which is the retrospective date, is not at all maintainable. The applicant is justified in seeking differential amount if there was any delay in payment of such amounts to him, but in the instant case, it is the claim of the applicant that for grant of interest on the differential amounts i.e. payment of arrears of pay and allowances and leave encashment with retrospective date 1.10.91, which is not at all maintainable and as such the claim of the applicant is liable for dismissal.

11. In the result, O.A. is dismissed. No order as to costs.

(M. KANTHAIAH)
MEMBER (J)

11.07.2008

v.