

Central Administrative Tribunal Lucknow Bench Lucknow.

O.A. 130/2006

This, the 4th day of March 2008

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

Dinesh Bux Singh,
Aged about 72 years
S/o Sri Sheo Pal Singh
Retired APM (BCR) Sitapur
R/o Village Newada,
P.O. Saraura Kalan (Kaulapur)
District Sitapur.

Applicant

By Advocate: Shri R.S. Gupta.

Versus

1. Union of India through
The Secretary Department of Post Dak Bhawan,
New Delhi.
2. Chief Postmaster General U.P. Lucknow.
3. Director Postal (Accounts) U.P. Aliganj, Lucknow.
4. Superintendent of Post Offices Sitapur.

Respondents

By Advocate: Sri G.K. Singh.

Order

BY HON'BL MR. M. KANTHAIAH, MEMBER (J):

The applicant has filed original application to quash the order dated 29.12.2005 (Annexure-1) issued by Respondent No. 4 and direct the respondents to pay interest on retrial dues including DCRG, CGEGIS, Pension, Commuted value of pension, leave encashment and arrear of pay paid after more than 8 years of retirement amounting to Rs. 159621/-.

2. The respondents have filed counter affidavit denying the claim of the applicant stating that the orders covered under Annexure 1 dated 29.12.2005 is a reasoned order and the applicant is not entitled compound interest and

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further as per rules 3 (1) (2) of CCS (Pension) Rules 1972, retri al benefits includes pension or gratuity only, but not other amounts.

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

4. Heard both sides.

5. The point for consideration is whether the applicant is entitled for the relief as prayed for.

6. The admitted facts of the case are that the applicant while working as Assistant Post Master Sitapur Head Office, retired on 30.11.991 after attaining superannuation and at that time, disciplinary proceedings under rule 14 was pending against him but subsequently, he was exonerated in the said proceedings on 5.4.99. When retri al dues and financial up-gradation and other claims were not considered by the respondents, he filed O.A. 510/99 on the file of this Tribunal for a direction to the respondents for payment of retri al benefits towards amount of gratuity, leave encashment of 63 days, CGEGIS along with interest @ 18% from 1.12.91 till the date of payment and also to release payment of grade promotion from 1.10.91 in the pay scale of Rs. 1600-2660/- along with payment of arrears After hearing both sides, the said O.A. was disposed of on 2nd September 2002 with a direction to the respondents to pay interest as admissible @ 10% on the arrears of retri al dues and on the amount of arrears to be worked out consequent upon grade promotion in the pay scale of Rs. 1600-2660/- from the date of such arrears were due for payment till the date of actual payment within a period of 3 moths. Annexure 2 is the copy of the said order dated 2.9.2002 in O.A. 510/99. After calculating the said amount, the respondents have paid an amount of Rs. 32,236/- on 31.1.2003, but the applicant who did not satisfy, moved contempt petition 08/2003 in O.A. 510/99 stating that the interest as directed by the Tribunal has not been calculated properly. But after hearing both sides, the contempt petition was disposed of with an observation that the applicant may make a

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fresh representation giving his calculation to the Superintendent of Post Offices Sitapur within a period of one month upon which, S.P.O. is directed to examine the same and pass reasoned and speaking order by taking note of the directions given in O.A. 510/99 dated 2.9.2002 within a period of two months from the date of receipt of such representation. Annexure 3 is the copy of the order in C.C.P. 8/2003. In pursuance of such directions, the applicant made representation covered under Annexure A-4 dated 17.2.2004 with statement showing the details of his claim in respect of arrears. After considering the said representation of the applicant, the respondents authorities have passed the impugned order covered under Annexure A-1 dated 29.12.2005 by furnishing reasons for disallowing the claim of the applicant. One of the reason is that no interest on delayed payment on CGEGIS, leave encashment and arrear of pay is admissible. They also stated that as per the provisions of Rule 68 of CCS (Pension) Rules 1972, interest on delayed payment of DCRG has already been paid to the retired official and the claim of year wise compound interest on DCRG is not at all permissible. They also further stated that interest already paid to the applicant is excess than admissible hence he is not entitled for further payment of interest against which the applicant has filed the present O.A.

7. By way of this original application, the applicant challenging the impugned order covered under Annexure A-1 on the ground that he is entitled for interest on delayed payments of CGEGIS, leave encashment and arrear of pay. He also claims interest on DCRG by calculating year to year and thus claiming compound interest and as per his calculation, the respondents are still due of Rs. 1,59,621/- and he is also claiming further interest on the above amount at 18%. In support of his claim he also relied on decision of this Tribunal in O.A. 280/2001 Bhagwati Prasad Vs Union of India and Others and O.A. 357/2002 Shri Ram Deo Tewari vs. Union of India and Others Annexure 5 and 7 respectively.

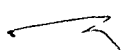
8. Admittedly, the applicant has filed earlier O.A. 510/99 wherein, he claimed for payment of retrial benefits towards gratuity, leave encashment,

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CGEGIS along with interest @ 18% per annum from 1.12.91 till the date of actual payment. He also claimed to release payment of grade promotion from 1.10.91 in the pay scale of Rs. 1600-2660 along with payment of arrears and the said O.A. was disposed of with a direction to the respondents to pay interest is admissible at 10% on the arrears of retrial dues and on the amount of arrears to be worked out consequent upon grade promotion from the due date of such arrears till the date of actual payment. From this order, it is clear that the Tribunal allowed the claim of the applicant more particularly, in respect of the claim of interest as admissible at 10% on the arrears of retrial dues and on the amount of arrears, due to consequent promotion.

9. By way of the present original application, the applicant is claiming the interest on DCRG, leave encashment, CGEGIS and arrear of pay after grade promotion total in Rs. 40,600/- @ Rs. 12% per annum with yearly rest for 8 years which comes to Rs. 1,01,195/-.

10. By way of the present O.A., the applicant is claiming interest on his retrial dues and other amounts @ of 12% per annum with compound rate of interest on the ground that he is entitled for such interest at par with GPF savings. In his earlier O.A. in O.A. 510/99 (Annexure 2) also the applicant made claim of his retrial benefits and other benefits with interest @ 18% per annum. Thus, the claim in the present O.A. and also in the earlier O.A. 510/99 is one and the same in respect of interest on delayed payment. . This Tribunal has given finding in earlier O.A. 510/99, directing the respondents to pay interest as admissible at 10% on the arrears on retrial dues and on the amount of arrears to be works out consequent upon grade promotion. When, there was a clear finding in the earlier O.A., it is not open to the applicant to file the present O.A. with same relief, which was already decided on earlier occasion. Further, the interest allowed on the arrears of retrial dues and the amount of arrears to be worked out consequent upon grade promotion, was admissible at 10% .



11. There was no reference of any compound interest and also interest payable as in the case of GPF savings, which the applicant is now claiming by way of present O.A. and as such, the said claim of the applicant is beyond the result of earlier O.A.

12. It is the contention of the applicant that the retrial dues includes all his claims i.e. DCRG, leave encashment, CGEGIS, but the respondents contends that the retrial benefits includes only pension or gratuity only as per 3 (1) 2 of CCS (Pension) rules 1972 but not all other amounts. But the payment of leave encashment, commuted value of pension and CGEGIS are the amounts to be paid only after retirement and as such, the said amounts will also be treated as part and parcel of retrial benefits of the employee. For all these amounts which will come within the preview retrial benefits, the applicant is entitled for interest admissible @ 10% as per the earlier decision of this Tribunal in O.A. 510/99 but not 12% and also not with compound rate of interest since nothing was referred in the said judgment.

13. In view of the above discussion as per the decision of the Tribunal in earlier O.A., the applicant is entitled on retrial dues i.e. DCRG, leave encashment, CGEGIS, commuted value of pension as admissible @ of 10% from the date of due till the date of actual payment and with such calculation, the applicant is entitled and thus the respondents are directed to calculate and pay balance of such amounts if any to the applicant within 3 months from the date of receipt of this order and with these directions, the O.A. is disposed of No costs.

(M. Kanthaiah)
Member (J)

04.03.2008