

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

Original Application No.564/2006
This the 20th day of December 2007

HON'BLE MR. M. KANTHAIAH, MEMBER JUDICIAL.

S.N. Dutta, aged about 63 years son of late Sri G.S. Dutta resident of 13-New Manak Nagar, Lucknow Retired as Section Officer under Director General, Research Design and Standard Organization, Ministry of Railways, Manak Nagar, Lucknow.

...Applicant.

By Advocate: Shri K.P. Srivastava.

Versus.

1. Union of India through Director General R.D.S.O., Manak Nagar, Lucknow.
2. Director General, R.D.S.O., Ministry of Railways, Manak Nagar, Lucknow.

By Advocate: Shri S. Verma.

ORDER

BY MR. M. KANTHAIAH, MEMBER JUDICIAL.

The applicant has filed this OA to quash the orders of the respondents dated 5/9.10.2006 (Annexure-6) and to issue direction directing the Respondent No.2 to pay the interest on delayed payments @ 18% pr annum.

2. The respondents have filed their Counter Affidavit denying the claim of the applicant and also stated that the rejection order covered under (Annexure-6) is a reasoned order and no circumstances are there to interfere with such findings.


3. The applicant has filed Rejoinder Affidavit denying the pleas taken by the respondents in their Counter Affidavit and also reiterated the stand taken in the OA.

4. Heard both sides.

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


6. The admitted fact of the case are that the applicant filed OA No.713/1994 on the file of this Tribunal to direct the respondents to fix the pay of the applicant as per Fundamental Rule 22.-C/R II w.e.f. 14.5.1991 and to pay the arrears with consequential benefits alongwith interest @ 18 % per annum on the amount due to the applicant. The main relief of the applicant was allowed. Annexure-1 is the copy of the said judgment Dt. 28.08.2002. In pursuance of the judgment the applicant received the difference of pay, DA and HRA for the period from 14.5.1991 to 31.1.1995 amounting to Rs. 33,673/-, difference of leave salary for 124 days amounting to R.2,790/- i.e. total Rs. 36,463/- was paid on 8.4.2003.

7. In compliance of the said order of the Tribunal dated 28.8.2002, the pay of the applicant was re-fixed and accordingly pension was revised by the respondents. But they did not pay any interest on the arrears paid in compliance of the order of the Tribunal. It is also not in dispute that no relief has been granted in respect of the claim of the applicant for grant of interest on his claims @ 18 % per annum in its judgment dated 28.8.2002. None of the parties have preferred any review against the order of the Tribunal dated 28.8.2002 relating to the claim of the interest made by the applicant.



8. Subsequently, the applicant has filed another O.A.No.406/2005 on the file of this Tribunal stating that the respondents have not paid interest on his claims, which he made in his earlier O.A.No.713/1994 and also stated that inspite of making his representation, there was no response from the respondent authorities and thus sought a direction for disposal of such representation. After hearing both sides, the said OA was disposed of with a direction to the respondents to pass order on the pending representation of the applicant in respect of his claim for grant of interest on the claims made in O.A.No.713/1994. Annexure-2 is the copy of said judgment dated 25.8.2006. In compliance of said orders of the Tribunal the respondent authorities have considered the representation of the applicant and passed a speaking order dated 5/9.10.2006, which is under challenge in this OA.

9. Annexure-6 is the rejection order dated 5/9.10.2006 in which the respondents have rejected the claim of the applicant for grant of interest on the ground that though the applicant made such claim of interest in O.A.No.713/1994 but its was not granted by the Tribunal, which clearly shows that the same has been already considered and rejected by the Tribunal and further there is no provision under the rules to pay interest on arrears arising out of re-fixation retrospectively. They further stated that when the claim of the applicant for grant of interest was considered and rejected in the earlier O.A.No.713/1994, by way of present OA , he is not entitled for such relief and thus barred on the principles of Res-judicata under explanation V of Section -11 of CPC and as such the OA is not maintainable.



10. In view of such stand taken by the respondents the following points are framed for consideration.

1. Whether the claim of the applicant is barred by principal of Res-judicata.
2. Whether the applicant is entitled for interest as claimed.
3. To What relief.


Point No.1:

Admittedly, the applicant in his earlier O.A.No.713/1994 specifically sought relief for grant of interest @ 18 % per annum on the due amount of arrears payable by the respondents basing on his claims made in the OA but while disposing of the said OA this Tribunal did not give any finding on the claim of the applicant in respect of interest relief.

12. It is the case of the respondents that when such claim in respect of the claim of interest was not allowed in the earlier O.A.No.713/1994 the present application in which he made same claim which is not at all maintainable and such claim is barred by the principles of Res-judicata. Admittedly, this present claim in respect of interest was made by the applicant in his earlier O.A.No.713/1994. But the Tribunal did not grant any such relief in respect of interest on arrears and other dues payable to the applicant. In both these OAs parties are common.

13. Explanation-5 of Section-11 of CPC says that any relief claimed in the plaint which is not expressly granted by the decree, shall , for the purposes of this section, be deemed to have been refused.

14. In view of such legal provision the claim of the applicant for grant of interest on the dues payable by the respondents is not at all



maintainable, since the same was claimed and agitated in the earlier OA No.713/1994, but no relief was granted therein. Thus, objection raised by the learned counsel for the respondents on the ground that this OA is barred by the principles of Res-judicata is valid and justified.


15. The applicant making subsequent representations and filing another O.A.No.406/2005 to issue direction to the respondents for disposal of these pending representation also does not give any fresh cause of action, since such claim was the subject matter in the earlier O.A.No.713/1994 and it was disposed of after due contest.

16. In view of the above circumstances, the claim of the applicant is barred by principles of Res-judicata hence, this point is decided against the applicant and in favour of respondents.

Point No. 2 and 3:-

In view of the finding of Point No.1 against the applicant, the applicant is not entitled for interest as claimed in this OA hence, this point is also decided against the applicant. Thus no merits in the claim of the applicant.

In the result, the O.A. is dismissed. No costs.


(M. KANTHAIAH)
MEMBER (J)
20.12.2007.

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