

Central Administrative Tribunal, Lucknow Bench,

Lucknow

Original Application No. 348/2008

This the 26th day of May, 2010

Hon'ble Dr. A.K. Mishra, Member(A)

Pratap Narain Singh Choudhary, Aged about 62 years, S/o Sri Shiv Nandan Prasad Choudhary, retired Assistant Director, O/o Chief Postmaster General, U.P., R/o D-259, Sector D, LDA Colony, Kanpur Road, Lucknow.

.....Applicant

By Advocate: Sri R.S. Gupta.

Versus

1. Union of India through the Secretary, Department of Posts cum Director General, Post Dak Bhawan, New Delhi.
2. Chief Postmaster General, U.P. Lucknow.
3. Director Accounts (Postal), U.P. Circle, Aliganj, Lucknow.

.....Respondents

By Advocate: Sri K.K. Shukla

ORDER

This application has been made with a prayer for a direction to respondent-authorities to permit payment of interest @ 10% per annum on all retiral dues paid to the applicant after his retirement w.e.f. 1.3.2007 till their actual dates of payment. The second prayer is for a direction to pay gratuity and leave encashment amount after taking into account 'special pay' attached to the post of Assistant Director Postal Services.

2. The applicant retired from service on the post of Assistant Director on attaining the age of superannuation on 28.2.2007. As per his own averments, retiral dues were paid on the following dates:

DCRG	3,25,776	4.12.07
Commuted value	336327	4.12.07

CGEGIS	26590	29.9.07
Leave encashment	197440	18.6.07

3. He is placing reliance on the order of this Tribunal in O.A. no. 510 of 1999 in which respondent authorities were directed to pay interest @ 10% per annum on retiral dues as admissible. In other words, interest is to be paid as admissible under Rules or Government instructions.

4. Rule 68 of CCS (Pension) Rules deals with subject of interest to be paid on delayed release of gratuity amount. Rule 68 is extracted below for better appreciation:

"68- Interest on delayed payment of Gratuity

- (1) *If the payment of gratuity has been authorized later than the date when its payment becomes due and it is clearly established that the delay in payment was attributable to administrative lapses, interest shall be paid at such rate as may be prescribed and in accordance with the instructions issued from time to time.
Provided that the delay in payment was not caused on account of failure on the part of the Government servant to comply with the procedure laid down by the Government for processing his pension papers.*
- (2) *Every case of delayed payment of gratuity shall be considered by the Secretary of the Administrative Ministry or the Department in respect of its employees and the employees of its attached and subordinate offices and where the Secretary of the Ministry or the Department is satisfied that the delay in the payment of gratuity was caused on account of administrative lapse, the Secretary of the Ministry or the Department shall sanction payment of interest.*
- (3) *The Administrative Ministry or the Department shall issue Presidential sanction for the payment of interest after the Secretary has sanctioned the payment of interest under sub-rule (2).*
- (4) *In all cases where the payment of interest has been sanctioned by the Secretary of the Administrative Ministry or the Department, such Ministry or the Department shall fix the responsibility and take disciplinary action against the Government servant or servants who are found responsible for the delay in the payment of gratuity."*
- (5) *Deleted."*

5. The subject of payment of interest on other items was considered by the Government, who issued following clarification in the G.O. dated 5.10.1999 of the department of P. & P.W.



- “(a) All pensioners’ dues are to be settled by strictly following the procedures laid down in Rule 56 to 76 of CCS (Pension) Rules, 1972.*
- (b) Wherever delays are anticipated, provisional pension should be sanctioned immediately.*
- (c) Any delay in processing of pension resulting in pension not being authorized on the last working day of retirement of the Government servant, should be reported by the Head of Office of the next higher authority who would watch the settlement of delayed cases.*
- (d) In respect of delayed payment of gratuity wherever it results in payment of penal interest at the rate applicable to GPF deposits under Rule 68 of CCS (Pension) Rules, 1972, Secretary of the Administrative Ministry or Department would initiate action to fix responsibility at all levels to recover the amount from the concerned Dealing Official, Supervisor and Head of Office in proportion to their salary by following the prescribed procedures for the purpose. This should be strictly enforced with immediate effect.*
- (e) Once it has been decided to pay gratuity, the amount should be paid immediately pending a decision regarding payment of interest. This would reduce the interest liability, if any, on payment of delayed gratuity.*
- (f) In the matter of delayed payment of leave encashment, the Department of Personnel & Training in their note, dated 2.8.1999 has clarified that there is no provision under CCS (Leave) Rules for payment of interest or for fixing responsibility. Moreover encashment of leave is a benefit granted under the leave rules and not a pensionary benefit.*
- (g) In the matter of CGEGIS, the Department of Expenditure, Ministry of Finance in their U.O. No. 709/E.V/99 dated 6.8.99 has clarified that payment under CGEGIS cannot be termed as terminal benefit. As payments under this Scheme are made in accordance with the Table of Benefit which takes into account interest upto the date of cessation of service, no interest is payable on account of delayed payments under the Scheme. They have also clarified that CGEGIS payment cannot be withheld and no Government dues can be recovered from the accumulation except the amount claimed by the financial institution as due from the employee on account of loans taken for house building purpose.”*

6. As regards DCRG, according to Rule 68 of CCS (Pension) Rules interest is payable if the delay is beyond three months after the date of retirement. The Counter affidavit filed by respondent-authorities states that the claim of the applicant for interest in respect of delayed payment of DCRG has been referred to Head office for sanction;



therefore, there is no dispute about payment of interest in respect of delay beyond three months from the date of retirement.

7. As regards commuted value of pension, learned counsel for the respondents submits that there are no rules which prescribe payment of interest on delayed sanction of commuted value. Further, the employee was getting full pension till his pension was commuted; therefore, it cannot be said that there was any financial loss caused to the employee till commuted value of pension was sanctioned. The employee cannot get double advantage: (i) getting full pension; and (ii) at the same time claiming interest on commuted value of pension. There is logic in this argument. Since the employee was getting full pension till the pension amount was commuted, he is not entitled to get any interest on commuted value of pension.

8. The amount towards leave encashment was paid with a delay of only 18 days. He retired at the end of February, 2007 and after three months it was due on 1.6.2007, whereas the payment was made on 18.6.2007. There was no undue delay involving administrative lapse; therefore, no interest is payable for such negligible delay. In any case, the leave encashment amount was paid under Leave Rules and has nothing to do with payment being made under Pension Rules. In that view of the matter, as per government instructions no interest is also payable. As regards CGEGIS amount, which was paid on 29.9.2007 after delay of about four months. According to the calculation table, the interest was given upto the date of retirement. Government instructions stipulate that CGEGIS amount should not be withheld and paid forthwith. However, since a delay of nearly 4 months has taken place, the claim of the applicant for interest even for the short delay of about four months could not be disallowed off hand.

9. The learned counsel for the respondents took the plea that the delay which occurred in this case was due to non-receipt of vigilance clearance in respect of the applicant as some vigilance inquiry was pending against him. However, it is admitted by the respondents that the vigilance clearance was given subsequently and no disciplinary proceedings were instituted against the applicant. In that view of the matter, the delay cannot be justified.



10. In the result, the respondents are directed to release payment of interest at prevailing GPF rates or 10% per annum which ever is lower in respect of delay beyond three months after the date of retirement in payment of DCRG amount and CGEGIS amount as discussed earlier. The delay involved in release of leave encashment amount was negligible, hence excluded from the purview of interest. Since the applicant got full pension during the period the commuted value of pension was not sanctioned, he is not entitled to get any interest in respect of delay in release of commuted value of pension.

11. The O.A. is partly allowed in terms of the observations made in the preceding paragraph. No costs.


(Dr. A.K. Mishra)
Member-A

Girish/-