

In The Central Administrative Tribunal,

Patna Bench, Patna.

Original Application No.-363/96.

Date of Order : 4.5.1999

Shri Krishna Chandra Prasad, S/o Late Babu Jamuna Prasad, Retired Deputy Superintendent of Post Offices, Muzaffarpur Division, Muzaffarpur. Resident of Village Paharchak, P.O. Suhridnagar, Distt. Begusarai, at present residing in Mohalla Anandpuri, Muzaffarpur-3.

... Applicant

Vrs.

1. The Union of India through the Secretary, Govt. of India, Min. of Communication, Department of Posts, India, New Delhi.

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2. The Director General, Department of Posts, India Dak Bhawan, New Delhi-1.
2. The Chief Postmaster General, Bihar Circle, Patna-1.
3. The Postmaster General, Northern Region, Muzaffarpur-2.
4. The Senior Postmaster, Muzaffarpur H. O.-2.
5. The Director of Accounts (Postal), Exhibition Road, Patna-1.

.... Respondents.

Counsel for the applicant : Shri S.N.Tiwary

Counsel for the respondents : Shri H.P.Singh, ASC.

C O R A M

Hon'ble Mr. L. R. K. Prasad, Member (Admn.)

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O R D E R

Hon'ble Mr. L. R. K. Prasad, Member (Admn.) :-

The applicant was appointed as Postal Clerk in the Department of Post in 1959. After getting due promotions, he retired on 31.1.1995 as Deputy Superintendent of Post Offices, Muzaffarpur Division. It is stated that his pay was fixed @ Rs. 2675/- from 1.11.1993 and Rs. 2750/- from 1.11.1994. It is the case of the applicant that there has been delay in releasing pensionary benefits to him in spite of the fact that neither any departmental proceeding nor any criminal proceeding was pending against the applicant. As there has been delay in sanctioning retiral benefits for which the respondents are responsible, the applicant has sought following reliefs in view of the grounds mentioned at para 5 of the O.A. -

- (i) Issuance of a direction on the respondents to sanction his post retiral benefits, such as final pension, final retirement gratuity, commutation value of the pension, C.G.E.G.I.S. amount;
- (ii) The respondents may also be directed to pay interest at the market rate to the applicant on the following retiral benefits-
 - (a) On provisional retirement gratuity of Rs. 53,450/- from 1.2.1995 to 31.3.1996;
 - (b) Residual amount of gratuity of Rs. 1000/- from 1.2.1995 till date of payment;

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(c) Commutation value of pension from 1.5.1995 till date of payment;

(d) On C.G.E.G.I.S. amount from 1.5.1995 till date of payment.

2. W.S. and rejoinder have been filed. I have heard the learned counsel for the parties and gone through the relevant records of the case.

3. The respondents have tried to clarify the points relating to delay in sanctioning the retiral benefits to the applicant. According to them for each gazetted officer, the custodian of the service book is Director of Accounts, Postal (D.A.(P) who is supposed to process the pension matters in time. The Regional Head is the controlling officer of a Govt. Officer in the region who only counter signs the pension papers and forward the same to DA(P). The DA(P) should complete the service book in respect of a Govt. servant 30 months before the date of his retirement. It is admitted that the applicant retired from service on 31.1.1995. His pension papers were received on 13.7.1994. The pension papers complete in all respect were sent to DA(P) on 18.6.1994 except the MRC for want of vigilance clearance. After the retirement of the applicant, the Sr. Post Master Muzaffarpur and D.D.O. submitted service verification report, final L.P.C. and final M.R.C. The up to date service verification report was sent to D.A. (P), Patna on

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7.4.1995. The leave encashment order was issued on 30.6.1995 and it was authorised for payment of Rs.49,504/-. Vigilance clearance was issued on 5.10.1995 and final M.R.C. was released on 9.10.1995. to D.A. (P), Patna. On 29.3.1996, the DA(P) issued order for payment of DCRG amounting to Rs.54,450/-. The amount of Rs.1000/- which was withheld, out of DCRG amount was also sanctioned on 10.6.1996. It is further stated that commutation value of pension and C.G.E.G.I.S. amount has also been sanctioned.

4. From the reply furnished by the respondents, one thing appears to be clear that there has been some delay in releasing full retiral benefits due to one reason or another, specially arising from delay and in completing the formalities/internal correspondence between the Administrative Office and the Director Accounts (Postal). It also took some time to release his balance amount of DCRG after getting clearance from vigilance wing of the department. The respondents have taken a stand that the delay has been caused due to unavoidable reasons as stated in the written statement. Moreover, the applicant should have prepared his claim for interest on delayed payment of DCRG which was delayed beyond three months from the date of retirement. For that purpose he should have exhausted the departmental remedies before moving this Court.

5. From the materials on record, it appears that the applicant retired from service on 31.1.1995. He

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has been paid following retiral dues :-

- (i) Pension @ Rs.1349 (Provisional) per month
- (ii) Provisional DCRG- Rs.53,450/- paid on 8.4.1996.
Residual amount of DCRG Rs.1,000/- paid on
12.7.1996.
- (iii) C.G.E. G.I.S. amount of Rs.6,600/- paid on
23.5.1997.
- (iv) Commutation value of pension - Rs.56,359/- paid
on 10.6.1996.

6. As already stated above, the applicant retired from service on 31.1.1995, so excepting for pension, he has claimed interest on other items of retiral dues from 1.2.1995 to the date of payment as has been stated in page 9 of the rejoinder. On the other hand, the respondents have tried to explain the reasons for delay in making payment of retiral dues. They have at the same time taken stand that for such delay, if any, the applicant should have exhausted departmental remedies for claiming interest for delayed payment in stead of directly moving this Tribunal. It may be pointed out that this is not a convincing argument. It is the duty of the respondents to ensure that the retiral dues of a Govt. Servant are paid within a time limit keeping in view of the fact that the financial position of a retired Govt. employee becomes ~~hard and~~ difficult after retirement. It is, therefore, necessary that such retiral dues should be paid to a retired employee well in time. There could be delay in payment of retiral benefits due to some unavoidable reasons such as pending departmental

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proceedings etc. but such delay requires to be adequately explained. In the instant case, neither a departmental proceeding nor a criminal proceeding was pending against the applicant, even then, it took some time to pay the retiral dues to the applicant.

7. In support of his claim, the applicant has relied on the order of Hon'ble High Court at Patna (Ranchi Bench) in the matter of Shri Haripad Tiwary Vs. State of Bihar (1991 BBCJ HC 334), order in O.A. decided by this Bench on 30.10.1991 and order in O.A. No.444/94 decided on 8.3.1996 by this Bench.

8. Rule 58 of CCS (Pension) Rules specifies that every head office shall undertake the work of preparation of pension papers in form 7, 2 years before the date of which a Govt. servant is due to retire on superannuation or on the date on which he proceeds on LFR whichever is earlier. Rule 59 provides for stages for completion of pension papers. According to Rule 60, the head of office is supposed to complete part I of form 7, not later than six months before the retirement of the Govt. servant after complying with the requirement of Rule 59 and 60. The head of office is supposed to forward to Accounts Officer form 5 and 7 duly completed with a covering letter format alongwith service book of the Govt. servant duly completed, up to date etc. These papers ^{are} required to be forwarded to the Accounts Officer not later than six months before the date of retirement of the Govt. servant. Rule 68 provides that if the payment of gratuity has been

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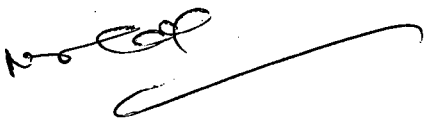
authorised later than date when its payment becomes due and when it is clearly established that the delay in payment as attributable to administrative lapses interest shall be paid at such rate as may be prescribed and in accordance with the instructions issued from time to time provided that delay in payment was not caused on account of failure on the part of Govt. servant to comply with prescribed procedure for processing pension papers. O.M.No.F-7/1/93-P&PW(F) dated 25.8.1994 of Department of Personnel (GOI) provides that where the payment of DCRG has been delayed beyond three months from the date of retirement an interest at the rate applicable to GPF deposit (at present 12 per cent compound interest annually) will be paid to retired Govt. servant.

9. The applicant has already stated that he had submitted the pension papers well in advance which has not been denied by the respondents. If it is so, it was the duty of the respondents concerned to finalise the pension papers within prescribed time frame. However, this could not be done due to delay in internal correspondence and in absence of vigilance clearance. My attention has been drawn to letter of Ministry of Communication, Department of Post (Annexure-A/14) which states that it has been decided that grant of final pension should not be withheld unless the chargesheet under the CCS (CCA) Rules has been served on the Govt. servant on or before the date of retirement. Regarding withholding of DCRG,

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Rule 69 of the CCS (Pension) Rules prescribes procedure for provisional pension where departmental or judicial proceeding may be pending. This is not applicable in the instant case, ^{no} as no departmental/judicial proceeding was pending against the applicant.

10. It is now admitted fact that the applicant has already been paid the retiral dues. However, the applicant has claimed interest at the market rate for delayed payment on retiral benefits from the date when they became due till the date of payment. From the letter of Govt. of India dated 25.8.1994 referred to above, it is clear that where the payment of DCRG has been delayed beyond three months from the date of retirement, interest at the rate applicable to G.P.F. deposit will be paid to retired Govt. servant. As the payment of DCRG has been delayed beyond three months from the date of retirement of the applicant, he is entitled to get same benefit so far as DCRG is concerned. In regard to claim of the applicant for payment of interest on commutation value of pension, which was paid to him on 10.6.1996, it may be stated that no interest ~~would be~~ ^{is} admissible because till he got commutation value of pension, the applicant must be getting full pension, therefore, Question of ^{interest on} payment of ~~of~~ commutation value of pension does not arise. The applicant has also claimed interest on delayed payment of C.G.E.G.I.S. which was paid to him on 23.5.1997. This matter requires to be further looked into with reference to record with regard to delay in




in payment. Therefore, the applicant may make a representation in this regard to the concerned authority within a month if so advised. Same should be disposed of in accordance with law by the concerned authority within a period of two months from the date of receipt of the said representation from the applicant by passing reasoned order.

11. In view of the above analysis of the case, it is directed that the respondents shall pay interest on the delayed payment of DCRG amount from the date they became due, till the payment was made in terms of Govt. of India's letter dated 25.8.1994 referred to in para 8 above.

With the above directions, the O.A. is disposed of with no order as to cost.

MPS.


(L.R.K. Prasad)
Member (A)

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