

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, P A T N A.

O.A.NO.: 507/96.

Date of decision : 25-NOV-99.

Anil Kumar Banerjee, son of Late Narendra Nath Banerjee, Ex-Assistant Manager III, Returned Letter Office, Patna-800 001, residing at Vidyarthi Bhavan, Professor's Lane, Daryapur Gola, Patna-800 004.

.....APPLICANT.

By Advocate : Shri S.N.Tiwarey with Shri K.P.Mishra.

Vrs.

1. The Union of India through the Secretary, Government of India, Ministry of Communication, Department of Posts, New Delhi-cum-The Director General, Department of Posts, India, Dak Bhavan, New Delhi-110 001.
2. The Chief Postmaster General, Bihar Circle, Patna-800 001.
3. The Director of Postal Services, Patna Region, Patna-800 001.
4. The Assistant Director of Postal Services [PC], office of the Chief Postmaster General, Bihar Circle, Patna-800 001.
5. The Director of Accounts [Postal], Exhibition Road, Patna-800 001.
6. The Chief Postmaster, Patna G.P.O., Patna-800 001.

.....RESPONDENTS.

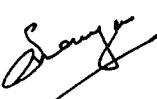
By Advocate : Shri S.C.Jha, Addl. Standing Counsel.

C O R A M

HON'BLE MR. JUSTICE S.NARAYAN, VICE-CHAIRMAN.

ORDER DICTATED IN COURT.

S.NARAYAN, V.C.:- The instant OA has been filed after a lapse of ~~about~~ more than ten years of the retirement on superannuation for a direction upon the respondents-employer to settle the retiral benefits and make payment thereof with interest at the market rate i.e. 18% p.a. from the day of the amounts having become due till the date of payment. The applicant while serving as Assistant Manager, Returned Letter Office, Department of Posts, Patna, retired on superannuation with effect from 31st January, 1986. Since all his efforts failed to settle the retiral benefits, the



applicant was compelled to come-up before this Tribunal in the month of October, 1996, and even thereafter, very unfortunately the matter could come-up for hearing only today [25.11.1999].

2. The respondents have, of course, used written statement, but in fact, they have not challenged the entitlement to the retiral benefits whatever was admissible to the applicant under the law. It would be rather apt to further point out that during the pendency of the OA. most of the amounts on different counts of the retiral benefits have since been settled and the payment thereof has also been accepted by the applicant. The up-to-date position as to the sanction of amount and payment thereof can be have had from the letter of the Director of Accounts [Posts], Patna, dated, 5th December, 1997 [Annexure-R/1], which is appended to the written statement of the respondents. This letter speaks that all the pensionary benefits have been revised and sanctioned as herein under :-

- "1. Pension:- Pen.I/T-3/S/revision/2087/A.K.B./6511 dt 20.2.97.
- 2. Comm.:- Pen.I/T-3/S/A.K.B./Com[Rev]/7906/6514 dt. 20.2.97.
- 3. DCRG-Pen.I/T/DCRG/3/Rev/AKB/20580 dt. 5.12.97.
- 4. CGEGIS-Pen.I/CGEGIS/III/1340/1544 dt. 17.2.87."


3. The applicant also has asserted in many clear words in paragraph no.9 of the rejoinder to the written statement wherein it has been demonstrated as to what was the -

- [i] admissible amount,
- [ii] date of payment, and
- [iii] period from which interest claimed.

For convenience sake, an extract thereof is placed herein below :-

<u>Details of the post retiral benefits.</u>	<u>Amount [Rs.]</u>	<u>Date of Payment.</u>	<u>Period for which interest claimed.</u>
1. DCRG	26,400	23.12.97	01.05.86 to 04.12.97
2. Arrears of Pension 42,659 & dearness relief for the period from Feb. 1986 to Feb.1997.		04.04.97	01.05.86 to 28.02.97
3. Commutation value 1255 of residual amount of pension.	1255	01.05.97	01.05.86 to 30.04.97
4. Amount of leave Not salary encashment of unutilised earned leave salary for 182 days.		Not yet paid	01.05.86 till the date of payment.
5. Difference of salary Not for the month of Jan.1986.		Not Yet	Paid 01.12.86 to date of payment.

4. From what would transpire from the aforesaid details and from the uncontroverted facts placed before me, I would not hesitate ^{to decide} _{h.s.} that the applicant would be entitled to interest at market rate @ 18% p.a. from the date when the DCRG amount and the arrears of pension togetherwith dearness relief became entitled to him uptill the period of actual payment. He would be also entitled to leave salary encashment for 182 days which has not yet been paid togetherwith the interest for the period as mentioned above. A meagre amount of difference of salary for the month of January, 1986, consequent upon revision of the pay also appears to have not been paid and, accordingly, to that also the applicant would be entitled to. So far the commutation value of the residual amount of pension was concerned, I do not find anything very much particular so as to grant any sort of relief with regard thereto.

5. So far the commencement of the period from which the interest should be calculated,



it has to be taken note of that the applicant retired w.e.f. 31st January, 1986, but there was a relevant subsequent event, occurred soon after his retirement, and that was the event of revision of pay as per the report of the Fourth Pay Revision Committee. It was but natural for the either side to have waited for the result of the revision of pay and, therefore, it could be reasonably accepted that the respondent authorities might have consumed some time in settling the retiral dues awaiting complicated calculation of arrears resulting out of the acceptance of the report of the Pay Revision Commission. My attention has been drawn to the Department of Telegraph notification no.1-4/86-PC/PAT, dated 25th September, 1986. As per this letter, the Department of Posts took a decision that in pursuance of the recommendation of the Fourth Central Pay Commission, ^{an} ~~the~~ incumbent of the department would be entitled to revised scales of pay effective from 1st January, 1986. Whatever amount was to be settled as per this recommendation may not be material because there is no dispute raised before me as to the settlement of the amount. What was material only is from which date the entitlement of interest should be determined. In this context, upon hearing the learned counsel appearing on the either side I have been convinced to grant at least ~~about~~ three months time from the aforesaid notification dated, 25th September, 1986, (accepting the recommendation of the Pay Revision Commission) for determining and settling the retiral benefits of the applicant. In that view of the matter, I am confident that the respondents ought to have determined and settled the retiral benefits of the applicant latest by 1st



January, 1987. That being as such, I would determine ~~only~~ that very date, from which the entitlement of the interest would ^{commence} ~~occur~~ with regard to the delayed payment.

6. Before I part with this case, I feel tempted to point out that in any view of the matter there should not have been delay of about ten years in settling the claim of retiral benefits and making payment thereof. And in fact, nowhere in the written statement, any cogent and acceptable reason has been assigned with regard thereto ~~accepting~~, however, at one place I find that the respondents have taken the plea that the amount of DCRG was held-up on account of non-submission of quarters vacation report by the departmental officer. In this context, it was categorically asserted in the application in paragraph no.4.13 that, whereas, the applicant retired from service w.e.f. 31st January, 1986, he vacated the Govt. quarters on 20th June, 1986, and made over charge of the quarters to Shri B.N.Thakur, Junior Engineer, P&T, Civil Wing, Patna. I am sure that the applicant did vacate the quarters within the reasonable space of time. If there was any fault on the part of Shri Thakur in not submitting the quarters vacation report, it was a brunt to be borne by the department and not by the applicant. Therefore, on this score as well the respondents were not entitled to withheld the payment of DCRG which had already been due to the incumbent.

Sanjay

7. While taking a decision on the line indicated above, I have placed reliance on the principles laid down by the Supreme Court in the case of R.Kapur Vrs. Director of Inspection [Painting and

Publication] Income Tax and Another [(1994) 28 ATC 516] and S.R.Bhanrale Vrs. Union of India & Ors. [1996 SCC[L&S] 1384].

8. For the reasons, aforesaid, this O.A. is allowed with a direction upon the respondents to settle the claim of interest @ 18% p.a. calculated from the crucial date being 1st January, 1987, till the date of actual payment, as mentioned in paragraph no.9 of the rejoinder to the written statement with regard to -

- [i] DCRG,
- [ii] arrear of pension and dearness relief togetherwith amount due on account of leave salary encashm~~emb~~g for period of 182 days and difference of salary of the month January, 1986 [on account of revision] togetherwith interest at the same rate for the period from 01.01.1987 till the date of actual payment.

It may further be added that the claim of the applicant may be determined at the earliest possible and not beyond four months from the date of communication of this order. There shall be no order as to costs.


[S.NARAYAN]
VICE-CHAIRMAN

SKJ