

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 449/96.

Date of Decision: 26.02.1997.

Shri Jethanand Premchand Bajaj,

Petitioner.

Shri K. B. Talreja,

Advocate for the
Petitioner.

VERSUS

Union Of India & Others,

Respondents.

Shri R. K. Shetty,

Advocate for the
Respondents.

CORAM : HON'BLE SHRI M.R. KOLHATKAR,
MEMBER (A).

- (i) To be referred to the Reporter or not ? X
- (ii) Whether it needs to be circulated to X
other Benches of the Tribunal ?

M R Kolhatkar

(M. R. KOLHATKAR)
MEMBER (A).

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 449/96.

Dated this Wednesday, the 26th day of February, 1997.

CORAM : HON'BLE SHRI M. R. KOLHATKAR, MEMBER (A).

Shri Jethanand Premchand Bajaj,
Retd. Sr. Auditor-Staff
No.: 8290222.
Under Accounts Officer,
Ordnance Factory,
Ambarnath.

... Applicant

Resident of : Block No. 218/435,
Ulhasnagar - 421 004,
Dist. Thane.

(By Advocate Shri K.B. Talreja)

VERSUS

The Union Of India,
Through the Chief C-ontroller
of Accounts, (FYS),
10-A Aukland Road,
Calcutta - 1.

The General Manager,
Ordnance Factory,
Ambernath.

... Respondents.

The Accounts Officer,
Ordnance Factory,
Ambernath.

(By Advocate Shri R.K. Shetty)

: ORDER :

¶ PER.: SHRI M.R. KOLHATKAR, MEMBER (A) ¶

In this O.A., the applicant who has admittedly voluntarily retired from service on 30.11.1993 is claiming the following reliefs :

- (i) This Hon'ble Tribunal may kindly be pleased to direct the respondents for payment of interest @ 18% on the delayed payment of Commutation value of pension with effect from 30.11.1993 i.e. the date of his retirement on a sum of Rs. 43,168/- which has been credited to the account of the applicant on 29.03.1996.

(ii) This Hon'ble Tribunal may kindly be pleased to direct the respondents to release a sum of Rs. 1000/- kept in abeyance for the unassessed dues, alongwith 18% interest upto date of actual payment.

(iii) This Hon'ble Tribunal may kindly be pleased to direct the respondents to release the balance amount of leave salary not paid till date alongwith interest at the rate of 18% till the date of actual payment.

2. Regarding the relief at sl. no. 1, the Respondents contend that the delay in payment of commuted value of pension was due to the following circumstances :

The applicant did not retire on superannuation but he retired voluntarily, therefore, in terms of Rule 12(ii) read with Rule 13(1) of CCS (Commutation of Pension) Rules, 1981, the applicant was eligible to apply for commutation of pension of a fraction of his pension only after the actual date of voluntary retirement. On perusal of the rules, it is seen that rule requires ^{that} a person getting retiring pension shall apply before the expiry of one year from the date of retirement. The respondents contend that the applicant applied on 26.09.1994, of which a copy is enclosed as exhibit R-A1 to the additional written statement but as the same was not in the proper form, a telegram was sent on 26.10.1994 exhibit R-A2 and thereafter, the applicant filled in the correct form on 23.11.1994 exhibit R-A3. The respondents therefore contend that ~~assuming~~ ^{that} there was a delay in payment of commuted value of ^a/_{fractional} pension and interest if any, is payable to the applicant, it

cannot be paid prior to the period of 23.11.1994. It is not disputed that an order in respect of commuted value of pension amounting to Rs. 43,168/- was passed for payment on 20.11.1995 and ~~for~~ the further delay of 3½ months, namely/29.03.1996, is on the part of Dena Bank, for which also the respondents cannot be held responsible. The respondents further contend that there are no rules to the effect that the applicant is entitled to interest on delayed payment of commuted value of pension.

3. It is well settled that the applicant is entitled to receive all the retiral benefits on the date of retirement or shortly thereafter, unless there are rules to the contrary in respect of any retiral benefits as in the case of provident fund, etc. In this particular case, I am inclined to accept the contention of the respondents that the respondents are not responsible for the delay in payment of commuted value of pension till 23.11.1994. I would expect the department to sanction the commuted value of pension within a month on receipt of the application, namely; 23.11.1994, therefore, the delay from 23.12.1994 upto 20.11.1995, the date of sanction order, is the delay for which the respondents are responsible and I hold that the respondents are liable to pay interest @ 12% to the applicant for this period. I direct accordingly ~

4. So far as the relief at Sl. No. 2 is concerned, the counsel for the respondents invites my attention to the instruction no. 6 of the P.P.O. which is reproduced below :

"6. Any demand coming to notice within a period of 6 months from the date of casualty after transmission of the PPO to the PDO should be communicated by Regd. Post to this office under intimation to the PDO concerned who should be requested not to release the withheld amount of D.C.R.G. It may be noted that the withheld amount of D.C.R.G. for unassessed dues is required to be released by the PDO automatically, that is, without any instructions from us after expiry of 6 months from the date of retirement, etc. of the individual. Thereafter, no recovery can be ordered from pension without the consent of the pensioner. The demand, if any, coming to notice after the above stipulated period will have to be regularised by your office directly."

From this instruction, it is clear that it was for the P.D.O. to ensure that an amount of Rs. 1,000/- was released to the applicant within six months of the issue of P.P.O. i.e. 30.04.1994 but actual payment however was made to the applicant on 24.08.1996. There is, therefore, a delay in payment of withheld amount of Rs. 1,000/- from D.C.R.G. from 30.04.1994 upto 24.08.1996. The respondents are liable to make payment of interest @ 12% on this amount for this period also.

I direct accordingly

5. So far as relief no. 3 is concerned, there is a difference in the leave account of one day, which has already been taken in account by the respondents and in para 5 of the written statement, they have stated that encashment on account of one day i.e. difference between 217 and 216 days, has already been paid to the applicant on 30.01.1996. The Counsel for the applicant submits that the original leave record may be called, because it was maintained at Ambernath.

He further prays for interest on the delayed payment of one day leave account. This request is rejected.

6. The O.A. is, therefore, disposed of with the above directions. There will be no order as to costs. *Action to be taken within 3 months*

M R Kolhatkar

(M. R. KOLHATKAR)

MEMBER (A).

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