

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 361 of 1999.

Dated the 30th day of November, 1999.

Mr. N. M. Visal Applicant.

Shri R. C. Ravalani, Advocate for the
applicant.


VERSUS

Union of India & Others, Respondents.

Shri R. K. Shetty, Advocate for
Respondents.

CORAM : Hon'ble Shri D. S. Baweja, Member (A).

- (i) To be referred to the Reporter or not ? Y
- (ii) Whether it needs to be circulated to other Benches
of the Tribunal ?
- (iii) Library. +


(D. S. BAWEJA)
MEMBER (A).

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MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 361 of 1999.

Dated the 30th day of NOVEMBER, 1999.

CORAM : Hon'ble Shri D.S. Baweja, Member (A).

Shri N.M. Visal,
Assistant Supervisor-8060436,
Military Young Stock Farm,
Manjiri, Pune - 412 307.
Residing at -
27-C, Budhwar Peth,
Appa Balwant Chowk,
Pune - 411 002.

Applicant.

(By Advocate Shri R.C. Ravlani)

VERSUS

1. Union of India through
The Secretary,
Ministry of Defence,
South Block,
New Delhi - 110 011.
2. The Deputy Director General
Military Farms, AHQ,
QMG's Branch,
West Block-III, R.K. Puram,
New Delhi - 110 066.
3. The Director Military Farms,
H.Q. Southern Command,
Khadki, Pune - 411 003.
4. The Director Military Farms,
H.Q. Eastern Command,
Fort Williams, Calcutta-700021.
5. The Officer-in-Charge,
Military Farm, Bengdubi,
Dist. Darjeeling - 734 424.
6. The Officer-in-Charge,
Military Young Stock Farm,
Manjiri, Pune -412 307.

... Respondents.

(By Advocate Shri R.R. Shetty for
Shri R.K. Shetty).

O R D E R

PER : Shri D. S. Baweja, Member (A).

This O.A. has been filed by the applicant making a prayer for payment against outstanding payments of Travelling Allowance/Daily Allowance with payment of interest at the rate of 18% for the period of delay.

2. The applicant while working in the Military Farms was ordered to move on temporary duty to various Farms in connection with his official duties. The applicant submitted the bill for payment of Travelling Allowance/Daily Allowance for the various periods and states that the following payments due to the applicant are pending with the respondents :

1. Bill No. E-13/TA-DA/MF Bengdubi dated 23.02.1996.
O/S amount .. Rs. 3,028/-.
2. Bill No. E-13/TA-DA/MF Bengdubi dated 10.07.1996
O/S amount .. Rs. 6,539/-.
3. Bill No. E-13/TA-DA/MF Bengdubi dated 10.07.1996
O/S amount .. Rs. 490/-.

The applicant submitted reminders on 09.09.1997 and 15.01.1998. Thereafter he sent a notice dated 20.11.1998 through his advocate. This notice was replied by the department by the letter

dated 19.01.1999 wherein it was advised that outstanding payments of the applicant are being arranged and some more time will be required for the same. As there was no further response from the respondents in regard to the payment, the applicant has agitated the matter by filing the present O.A. on 15.04.1999 seeking the above referred reliefs.

3. The respondents have filed a written statement. The respondents have submitted that the payment of Rs. 9,150.00 has already been remitted to the applicant. As against the pending claims of Rs. 4,652.00 and Rs. 6,539.00, the claims to the extent of Rs. 3,028.00 and Rs. 6,122.00 has been respectively allowed. As regards with-held payment of Rs. 490/- as mentioned in the letter dated 19.01.1999 (Annexure-1), this payment has been also allowed as per letter dated 05.05.1999 deducting an amount of Rs. 446.00 as necessary recovery. With these details the respondents submit that the payments as outstanding to the applicant have been already made and no grievance of the applicant now remains. As regards the payment of interest, the respondents submit that the delay had taken place mainly on account of the time taken in obtaining the time barred sanction and the applicant is not entitled to any payment of interest for the delay.

4. The applicant has not filed any rejoinder reply.

5. I have heard Shri R.C. Ravlani and Shri R.R. Shetty for Shri R.K. Shetty, the Learned Counsel for the applicant and respondents respectively. During the arguments, the Learned Counsel for the applicant confirmed that the outstanding payments have been since received by the applicant as brought out in the written statement and his grievance therefore stands settled on this account. However, the Learned Counsel for the applicant stated that the only claim now left is with regard to payment of interest on delay in payment of outstanding dues. He submitted that the delay in payment has taken place due to administrative lapses and the applicant deserves to be compensated for this delay with penal interest @ 18% per annum. The applicant relied upon the judgement in the case of Balchandra Chintaman Gadgil V/s. Union of India & Others reported in (1997) 36 ATC 222 (FB) The Counsel for the respondents, on the other hand opposed the grant of any relief of payment of interest on account of delay in payment of the outstanding dues.

6. After carefully considering the facts and circumstances of the case, I do not find any merit in the claim of the applicant for interest on the delayed payment. Firstly, as per the applicant, the bills had been submitted for payment in 1996 when the payment had become due to him. The applicant has filed the present O.A. only in 1999. The applicant has neither explained any reasons for the delay in filing the present O.A.

nor has he made any application for condoning delay. If the applicant was aggrieved by the non-payment of his dues, he should have agitated the matter at the appropriate time. In any case, if the applicant has been keeping quiet for non-payment of outstanding dues, he cannot now come after a period of three years and claim interest on the delayed payment. Secondly, from the averments made by the respondents in the written statement and the material brought on record, it is noted that there was dispute with regard to the amount payable to the applicant. The respondents have brought out that the bills actually passed for payment are of much less amount than what had been claimed by the applicant. This is also clear from the letter of the applicant at Annexure A-4 wherein he has indicated the details of the claim made by him and the actual payment allowed by the department. After the claim has been accepted by the department, the payments then become due and thereafter for any delay in the payments, there could be a question of payment of interest. In the present case it is noted that the final amounts accepted have been advised to the applicant only in 1999 and thereafter the payments have been made by the respondents. Even under these circumstances, the applicant is not entitled for any payment of interest.

7. The Learned Counsel for the applicant has relied upon the Full Bench judgement in the case of Bhalchandra Chintaman Gadgil V/s. Union of India & Others to support his case for payment of interest for delay in payment. I have carefully gone through the order of the Full Bench and I am of the view that the ratio what

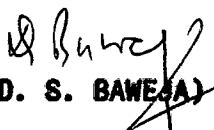
is held in this order does not apply to the facts of the present case. The main issue in this case was with regard to payment of interest on leave salary for earned leave. There was no dispute with regard to the right of the applicant's encashment of leave. No determination on this account was required to be called for. The main issue was the delay in payment, which was the vested right of the applicant and, therefore, the Bench came to the conclusion that applicant is entitled to payment of interest for any delay caused. In the present case, as discussed above, the issue with regard to payment of the claim made by the applicant for the T.A./D.A. was under dispute and it took time for deciding on the issue. Till such time a decision was taken as regards the claim of the applicant, the applicant did not have any vested right for the payment. Further, the payment of T.A./D.A. was a reimbursement of the expenses incurred by the applicant. No interest is payable for delay, if any, for reimbursement of such allowances. In this connection, I refer to the judgement of the Hon'ble Supreme Court in the case of Om Prakash Gargi V/s. State of Punjab {1997 SCC (L&S) 479}. In this case, the issue was with regard to the claim of reimbursement of medical expenses and the interest thereon for delay in payment. Though the High Court allowed the payment of medical expenses, but, no interest was allowed for the delay in payment. The Hon'ble Supreme Court has upheld the decision of

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the High Court stating that no interest is payable on reimbursement of medical expenses observing that reimbursement of medical expenses requires verification of the amount spent and the employee gets the right for reimbursement only after this verification is complete and it does not follow that for the delay in the payment of medical reimbursement, he should also be entitled to interest thereon. What is held in this judgement, squarely applies to the present situation and conclude that the applicant is not entitled for any payment of interest.

8. In the result, the O.A. with regard to payment of interest is not only barred by limitation, but is also devoid of merits and is accordingly dismissed. No order as to costs.


(D. S. BAWEJA)
MEMBER(A).

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