

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO. : 959 OF 1999.

Dated this Thursday, the 20th day of April, 2000.

M. A. Tamhankar, Applicant.

In person. Advocate for the applicant.

VERSUS

Union of India & Others, Respondents.

Shri R. K. Shetty, Advocate for the Respondents.

CORAM : Hon'ble Shri Justice R. G. Vaidyanatha,
Vice-Chairman.

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

R. G. Vaidyanatha
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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M. A. Tamhankar,
(Retd.) AE B/R (MES)
5, Trimbakeshwar, 1st floor,
148, Dahanukar Colony,
3rd Road, Kothrud,
Pune - 411 029.

... **Applicant.**

(In person).

VERSUS

1. Union of India represented by
The Secretary,
Ministry of Defence,
South Block,
New Delhi - 110 001.
2. Engineer-in-Chief,
Kashmir House,
(Represented by E-in-C, New Delhi)
DHQ PO :New Delhi - 110 011.
3. Officer-in-Charge,
Central Record Office (Officers),
C/o. Chief Engineer, Delhi Zone,
Delhi - 110 010.
4. Chief Controller of Defence,
Accounts (Pensions),
Draupadi Ghat,
Allahabad - 211 014.
5. Chief Engineer,
Southern Command,
Pune - 411 001. ... **Respondents.**

(By Advocate Shri R. K. Shetty)

OPEN COURT ORDER

PER : Shri R. G. Vaidyanatha, Vice-Chairman.

This is an application filed by the applicant claiming
interest @ 18% per annum on the delayed payment of arrears of

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monetary benefits on the basis of acceptance of recommendations of Fifth Pay Commission. Respondents have filed reply. We have heard the applicant who appeared in person and Mr. R. K. Shetty on behalf of respondents. Applicant retired from service on 31.03.1996. After the acceptance of the Fifth Pay Commission, the Government issued orders in 1997 giving the benefit of the recommendation of the Fifth Pay Commission w.e.f. 01.01.1996, including enhanced pension rates, etc.

2. The applicant's grievance is, that though the Government issued order dated 27.10.1997 and a time limit was fixed in that circular that amount should be paid by 30.11.1997, there was a delay on the part of the Government in making payment to the applicant as late as 16.07.1999 and, therefore, the applicant is entitled to claim interest.

3. The respondents have explained in their reply the administrative delays and the numerous work involved in attending to the enhancement of salary to number of officials, both - those who had retired prior to 01.01.1996 and those who are retiring after 01.01.1996.

4. Applicant placed strong reliance on the circular (exhibit-A) which is dated 27.10.1997 and contended that the arrears should have been paid by 30.11.1997 and since it is paid one and a half years later, he is entitled to claim interest. On the face of it, the contention has no merit, since the circular dated 27.10.1997 applies only to pre 1996 pensioners. It is clearly mentioned in para 3.1 that it applies to existing



pensioners as on 31.12.1995. The applicant is a post 1996 pensioner and, therefore, he is not covered by the provisions of that circular, including para 11, which prescribes that payment should be made on or before 30.11.1997.

5. If once we hold that exhibit-A is not applicable to ^{he} applicant, has not produced any other Government order or Government circular to show that he should have been paid arrears on or before a particular date, failing which he is entitled to interest.

We may take judicial notice of the enormous work the Government has to do before granting the arrears of pension or arrears of monetary benefits on the basis of recommendations of Fifth Pay Commission. It is not a one day affair or one time affair. It is a continuous work that has to be done by the Government. In the facts and circumstances of the case, the applicant cannot say that as of right he is entitled to claim interest. It is not his case that any particular officer was hostile to him and therefore deliberately delayed the payment. No such allegation is made. If due to administrative delays or enormous work there is delay of few months in paying the arrears of monetary benefit, it cannot be said that interest should be granted as of right to the applicant.

6. Though I am not inclined to grant any interest to the applicant, we cannot lose sight of the fact that there is some delay in making arrears of payment to the applicant. Therefore, in the facts and circumstances of the case I feel that applicant should be compensated by granting some costs in this application.

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In my view, the decision of the Ahmedabad Bench in O.A. No. 463/98 on which the applicant placed reliance, is not applicable to this case for the simple reason that no amount had been paid to the applicant in that case till the filing of the O.A. or even thereafter. That is how the Tribunal gave a direction to the Government to make the payment alongwith interest. But in this case, the applicant has been paid arrears before he approached this Tribunal.

7. In the result, the application is disposed of at the admission stage but the respondents are directed to pay a consolidated sum of Rs. 5,000/- (Rupees : Five Thousand only) as interest or cost to the applicant to compensate for the delay in payment. The amount should be paid within two months from the date of receipt of a copy of this order.

R.G. Vaidyanatha
(R.G. VAIDYANATHA)
VICE-CHAIRMAN.

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