

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 973/1999

DATE OF DECISION: 3//01/2001

Smt. Valliamma

Applicant.

Shri J.M.Tanpure

Advocate for
Applicant.

Versus

Union of India & 3 Ors.

Respondents.

Shri R.R.Shetty for Shri R.K.Shetty

Advocate for
Respondents.

CORAM:

Hon'ble Smt. Shanta Shastry Member(A)

1. To be referred to the Reporter or not?
2. Whether it needs to be circulated to other Benches of the Tribunal?
3. Library. ✓

Shanta Shastry
(SHANTA SHASTRY)
MEMBER(A)

abp

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO: 973/1999
DATED THE 21st DAY OF Jan 2001**

CORAM: HON'BLE SMT. SHANTA SHASTRY, MEMBER(A)

Smt. Valliamma,
Widow of late M. Krishnaswamy,
Ex-Ticket No. 1068, Vehicle Mech. of
Central Vehicle Depot, Dehu Road,
Resident of House No. 10,
Ward No. 3, Dehu Road,
Dist. Pune.

... Applicant

By Advocate Shri J.M. Tanpure

V/s.

1. Union of India,
Through the Secretary,
Ministry of Defence,
South Block, New Delhi - 110 001.
2. The Commandant,
Central AFV Depot,
Kirkee, Pune - 411 003.
3. The Commandant
Ordnance Depot, Fort,
Allahabad.
4. The Chief Controller of
Defence Accounts, (Pension),
Allahabad.

... Respondents

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

(ORDER)

Per Smt. Shanta Shastri, Member(A)

This OA was filed by the applicant seeking ex gratia pension and also market rate interest on the arrears of ex gratia pension for delay in payment of the allowance and heavy cost.

2. The husband of the applicant was working as a Vehicle Mechanic in the Central Vehicle Depot, Dehu Road, Pune for a number of years. Thereafter his services were terminated owing to the disbandment of the Depot and no alternative appointment was given to him. He expired on 16/11/94. He had opted for CPF

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scheme during his service. He was allotted IOFWP A/c. No. 66513. After the death of the husband, the applicant applied for grant of ex gratia payment under the scheme dated 13/6/1988 as per Appendix 13 of the CCS(Pension)Rules 1972. The applicant was advised to submit the original receipt of the IOFWP A/c.No. vide letter dated 15/11/1996 alongwith certain other documents. However, despite protracted correspondence with her, the claim could not be settled in the absence of the original receipt of the CPF A/c. No. The respondents however forwarded her claim to the Chief Controller of Defence Accounts, (Pensions) Allahabad vide their letter dated 15/10/1999. It was due to the delay in the submission of the requisite document by the applicant that the ex gratia pension could not be sanctioned to the applicant.

3. The learned counsel for the applicant submits that during the pendency of this OA, part of her prayer i.e. ex gratia payment has been sanctioned to her and she has even been paid the arrears. The applicant has also prayed compensation of Rs.50,000/- to be awarded for the mental agony and torture she suffered due to non receipt of payment in time.

4. The learned counsel for the applicant contends that the applicant had complied with the requirement of the various documents. She had been corresponding since 13/10/95 and had complied with the requirements asked for by Respondents. The IOFWP Fund A/c. No. was not available with her. However, the respondents kept harping on receiving the same and therefore inordinate delay was caused. It is contended that inspite of the matter being taken up through the Seva Nivrutti Sanghatana Talegaon,

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Babhade repeatedly, the respondents have failed to pay her the ex gratia pension till she filed the present application. The learned counsel urged that it was not mandatory to produce the original receipt of CPF A/c. No. as per the rules. Yet the respondents kept insisting on it. Therefore, the respondents must pay interest on the arrears from 1994 onwards till the date of actual payment.

5. The learned counsel is relying on the judgement in the case of S.R.Bhanrale, Appellant V/s. Union of India and Ors, Respondents decided by the SC on 19/7/1996 (1996) LABIC 2756. In this case, it was held that bar of limitation cannot be pleaded when the department itself had delayed in making the payment of the pensionary benefits promptly inspite of demands constantly made by the employee, the Hon.Court directed to pay Rs.2 lacs towards interest and compensation and litigation expenses in addition to claim amount. The learned counsel pleads that the applicants case is also similar. She had to undergo severe hardship, to get the ex gratia payment. She was wrongly denied it for five years and therefore she is entitled to interest as well as compensation. The learned counsel has also relied on 1999 LAB IC 1174 and AIR 1985 SC 356.

6. The learned counsel for the respondents however submits that there was no wilful delay on the part of the respondents and even before the OA was filed on 18/11/99, the respondents had on their own initiative forwarded the claim of the applicant to the Chief Controller of Defence Accounts despite non receipt of the original receipt of the CPF A/c. vide their letter dated 15/10/99. It cannot be therefore said that the respondents had made the ex gratia payment only after driving the

applicant to file the OA. As regards the interest part, the learned counsel submits that interest can be paid only on pension or pensionary benefits on retirement. The applicant's case is not on all fours with Bhanrale's case(supra). Here the question is of ex gratia payment and not of regular pension arising out of superannuation. The Ex gratia is a payment on gratis, it is not a right and therefore the question of paying any interest on the arrears does not arise. The applicant's husband died on 16/11/94. The applicant was advised to furnish the required documents vide letter dated 15/11/96. Therefore no interest is payable in any case for this period. Even for the remaining period, as there was no deliberate delay on the part of the respondents and as this is only ex gratia payment no interest is payable.

7. I have heard the learned counsel for the applicant as well as respondents. In my view the respondents have sanctioned the ex gratia payment to the applicant. This is a gratis payment. It does not confirm any right for receipt of ex gratia payment. The respondents have graciously granted the payment. This is not on par with the regular retirement benefits and therefore I am unable to consider granting of any interest on the arrears of ex gratia payment made to the applicant or compensation.

8. Accordingly, the OA is dismissed. No Costs.

Shanta Shastri

(SHANTA SHASTRY)
MEMBER(A)

abp

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

REVIEW APPLICATION NO:13/2001 IN
ORIGINAL APPLICATION NO:973/99

12/06/2001

CORAM: HON'BLE SMT.SHANTA SHASTRY, MEMBER(A)

This is a review application filed in respect of OA No.973/99 which was decided on 31/1/2001. The review is for reconsidering grant of interest on the arrears of ex gratia payment made to the applicant from the period 17/11/94 till February,2001. By the order dated 31/1/2001, the request for interest was rejected.

2. It is the contention of the applicant that the applicant was legally entitled to the ex gratia payment. The IVth Central Pay Commission recommended the ex gratia payment to the widows of Contributory Provident Fund Retirees and after the Presidential sanction Appendix 13 was included in the CCS Pension Rules 1972. The orders are law as per Article 13(3a) of the Constitution and therefore it can be challenged in the appropriate Court. According to the applicant ex gratia payment is not a gratis payment and the Tribunal erred in holding that the Respondents have graciously granted ex gratia payment. The respondents by granting the ex gratia payment have not obliged the applicant and also the payment of ex gratis is not depending upon the mercy or sympathy of the respondents but they are duty bound to pay the same. Therefore, the ex gratia payment is on par with the regular retirement benefits. The applicant has therefore called for review of the order dated 31/1/2001 and to allow the interest on the arrears of ex gratia payment from 17/11/94 till February, 2001.

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3. In the order on the OA, it has been clearly pointed out that the applicant was not entitled to any interest for the period from 17/11/94 to 15/11/96 and even for the remaining period there is no deliberate delay on the part of the respondents and therefore no interest is payable. The question of interest on retiral benefits comes up only if there is deliberate delay on the part of the Government in sanctioning and releasing the same within a reasonable time. In the circumstances no review is called for in this case.

4. In the result, the review petition is rejected.



(SHANTA SHASTRY)
MEMBER(A)

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