

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.: 269/2000

Date of Decision : 7th March 2001

P.A.Jagtap _____ Applicant.

Shri H.Y.Deo _____ Advocate for the
Applicant.

VERSUS

Union of India & Ors. _____ Respondents.

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

CORAM :

The Hon'ble Shri S.L.Jain, Member (J)

- (i) To be referred to the Reporter or not ? *yes*
- (ii) Whether it needs to be circulated to other ~~No~~ Benches of the Tribunal ?
- (iii) Library *yes*

S.L.JAIN
(S.L.JAIN)
MEMBER (J)

mrj*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.269/2000

Dated this the 7th day of March 2001.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

P.A.Jagtap,
R/o. 842, Guruwar Peth,
Pune.

...Applicant

By Advocate Shri H.Y.Deo

V/S.

1. Union of India
through the Secretary,
Ministry of Defence,
(D.C.Q.A.)Dept.Defence Prodn.
& Supplies, Raksha Bhavan,
D.H.Q.PO, South Block, New Delhi.

2. Chief Controller,
Office of C.D.A.(Pension),
Draopadi Ghat, Allahabad.

3. The Senior Quality Assurance
Officer, S.Q.A.E.(A),
Sr.Quality Assurance Estt.(Armts.),
Khadki, Pune.

...Respondents

By Advocate Shri R.K.Shetty

O R D E R

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act, 1985 seeking to quash and set aside letter No. SQAE(A)/LAB/D/8810/P(PAJ) dated 4.11.1999 issued by SQAE(A), Khadki, Pune with a direction to the respondents to pay the interest at the rate of 18% p.a. for a period of one year, four months over Rs.2,49,672/- and Rs.5,574/-.

D.S.M / ..2/-

2. The applicant retired on superannuation on 31.1.1997. Ministry of Defence allowed the employees to exercise their option in the new scale. The pay of the applicant was revised at Rs.9,700/in the new scale of Rs.7450-11,500 w.e.f. 1.1.1996. The applicant in accordance with the O.M. dated 26.3.1998 exercised his option on 8.5.1998, opted to switch over to new scale from 1.5.1996. Respondents refixed the basic pay of the applicant in new scale w.e.f. 1.5.1996. In November, 1998, CDA Calcutta finalised accounts of leave encashment and other service arrears of the applicant. On 23.12.1998 Respondent No. 3 sent the case of applicant for revision of pension. In July, 1999, Respondent No. 3 by sending Fax message to Respondent No. 2 requested to finalise the pension of the applicant. On 5.8.1999 Respondent No. 2 sent revised PPO to Respondent No.3 and Respondent No. 3 sent his revised PPO to the concerned Bank on 20.8.1999 in consequence thereof the applicant received the arrears of revised pension in September, 1999. The applicant represented regarding interest on 20. 10.1999 which was rejected on 4.11.1999.

3. On perusal of the above facts, it is made out that the pay of the applicant in the revised scale was fixed in August, 1998 but he could get the arrears of revised pension only in September, 1999. Admitting the delay, the cause of delay has been stated by the respondents increase in work load, the documents regarding revision of retirement benefits were under processing stages with all the four agencies i.e. SQAE (A) Kirkee AO AFK/CC of A(Fys), Calcutta and CCDA(P) Allahabad during the period 26.5.1998 to 20.8.1999.

4. The learned counsel for the applicant relied on guidelines for determining delay in payment of gratuity in cases where gratuity already paid is enhanced on account of revision of

emoluments or in the provisions relating to gratuity from the date prior to the date of retirement of the Government servant concerned. He relied on G.I. Department of Personnel and P.W., O.M.No.7/20/89/P. & P.W.(F) dated 22.1.1991 and argued that a period of three months from the date of issue of orders revising the emoluments or relaxation in the rules, interest would be allowed for the delay beyond the period of three months of the date of issue of some orders. The applicant claimed that interest at the rate of 12% p.a. be awarded.

5. The learned counsel for the respondents relied on the order passed in OA.NO.959/99 decided on 20.4.2000 and argued that interest cannot be allowed in view of the fact that in view of the Vth Pay Commission recommendations, 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 as 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. Though this is the observation of the Bench in that OA. but the bench was not apprised of the instructions referred above, hence this observation by the Bench. In view of para 5 of the said order, where it is mentioned that applicant has not produced any other Government order or Government Circular to show that he should have been paid the arrears on or before a particular date, failing which he is entitled to interest.

82/ 4/-

6. In addition to it, the Bench has awarded a consolidated sum of Rs.5,000/- as interest or cost to the applicant to compensate for the delay in payment. Interest is a compensation for delay in payment. Hence, even the Tribunal has awarded the amount sufficient to meet the cost or interest in delay in payment. Hence, I am not inclined to agree with the learned counsel for the applicant that interest cannot be awarded in case of delay in payment.

7. The learned counsel for the respondents has drawn my attention to the fact that the applicant has submitted revised option which caused the delay in payment. The revised option was submitted by the applicant on 8.5.1998 hence, counting three months from the said date, the applicant is entitled to interest on the amount w.e.f. 8.8.1998 till actual payment is made on September, 1999.

8. The further ground for delay in payment is stated that the service record was received late after settlement of leave encashment of applicant for revision of pension which took sufficient time, i.e. 26.5.1998 to 20.8.1999. Suffice to state that it is also the job of the respondents to provide the applicant leave encashment and if the respondents proposes to sit on the file or have a sound sleep, then they are not entitled to take benefit of their own fault. The delay has been caused by the respondents and hence the applicant is entitled to interest.

S.M. /

..5/-

9. The learned counsel for the applicant relied on 1987 (4) SCC 328, O.P.Gupta vs. Union of India & Ors. for the proposition that in delayed payment 12% p.a. interest deserves to be allowed. I agree with the said submission of the learned counsel for the applicant.

10. In the result, OA. is allowed. The respondents are ordered to pay interest to the applicant on Rs.2,49,672/- and Rs.5,574/- at the rate of 12% p.a. w.e.f. 8.8.1998 till September, 1999 with the cost amounting to Rs.650/- (Rs.500/- as Legal Practitioner's fee + Rs.150/- as other expenses) within a period of not later than three months from the date of receipt of the copy of the order. No order as to costs.

SLJ
(S.L.JAIN)

MEMBER (J)

mrj.