

CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH.

Original Application No.317/2001.

Tuesday, this the 28th day of August, 2001.

Hon'ble Shri Justice Ashok Agarwal, Chairman,
Hon'ble Smt. Shanta Shastry, Member (A).

N.B.Jamdade,
Building No.30/1040,
Opp. Golf Club,
Chembur Camp,
Mumbai - 400 074.
(By Advocate Shri S.Natarajan)

...Applicant.

v.

1. Union of India through
The Secretary,
Ministry of Finance,
Department of Revenue,
Government of India,
North Block,
New Delhi - 110 001.
2. The Commissioner of Central Excise,
ICE House, 41/A, Sassoon Road,
Opp. Wadia College,
Pune - 1.

...Respondents.

(By Shri V.D.Vadhavkar for
Shri M.I.Sethna)

: O R D E R (ORAL) :

Smt. Shanta Shastry, Member (A).

The applicant in this OA, has prayed for payment of differential between the duty pay and the subsistence allowance paid for the period from 27.9.1985 to 30.9.1985 and to pay interest at the rate of 15% p.a. on Rs.42,975/- for the period from 1.10.1985 to 15.6.1993 and on Rs. 1705/- for the period from 1.10.1985 to 3.10.2000.

2. The brief facts in this case is that applicant was appointed as an Inspector in the Customs & Central Excise Department and after due promotions, he was working as Assistant Collector of Customs and Central Excise at the time of his

retirement which was w.e.f. 30.9.1985. The applicant was placed under suspension vide order dt. 20.9.1985 effective from the forenoon of 27.9.1985 to 30.9.1985. On his retirement, he was paid provisional pension and the gratuity amount was withheld. Thereafter, regular charge sheet was issued, an enquiry was conducted and initially the applicant was punished with a penalty of 10% cut in pension for one year. Thereafter, however, he was completely exonerated by dropping the proceedings vide letter dt. 25.4.2000. The applicant is therefore claiming interest on the delayed payment of gratuity based on the Government of India instructions below Rule 68 of the CCS (Pension) Rules, which inter alia provides as under:

"(1) Admissibility of interest on gratuity allowed after conclusion of judicial/departmental proceedings. - 1. Under the Rules, gratuity becomes due immediately on retirement. In case of a Government servant dying in service, a detailed time-table for finalizing pension and death gratuity has been laid down, vide Rule 77 onwards. (2) Where disciplinary or judicial proceedings against a Government servant are pending on the date of his retirement, no gratuity is paid until the conclusion of the proceedings and the issue of the final orders thereon. The gratuity if allowed to be drawn by the competent authority on the conclusion of the proceedings will be deemed to have fallen due on the date of issue of orders by the competent authority. (3) In order to mitigate the hardship to the Government servants who, on the conclusion of the proceedings are fully exonerated, it has been decided that the interest on delayed payment of retirement gratuity may also be allowed in their cases, in accordance with the aforesaid instructions. In other words, in such cases, the gratuity will be deemed to have fallen due on the date of following the date of retirement for the purpose of payment of interest on delayed payment of gratuity. The benefit of these instructions will, however, not be available to such of the Government servants who die during the pendency of judicial/disciplinary proceedings against them and against whom proceedings are consequently dropped."

3. The gratuity amount had become due to the applicant on

30.9.1985 when he had superannuated. The gratuity was finally paid to the applicant on 15.6.1993. He is therefore, claiming interest from 1.10.1985 to 15.6.1993. In this case, the Respondents have not filed any reply so far. Since the applicant has been exonerated completely and the charges levelled against him have been dropped, his prayer as spelt out in para 8(b) of the OA needs to be considered as per Rules. We therefore, direct the respondents to treat the present OA as applicant's representation and to consider the same as per rules within a period of three months from the date of receipt of the copy of this order. No costs.

Shanta
(SHANTA SHAstry)
MEMBER(A)

Agarwal
(ASHOK AGARWAL)
CHAIRMAN

B.