

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Dated this Thursday the 4th day of April, 2002

Coram: Hon'ble Mr.B.N.Bahadur - Membe (A)

O.A.370 of 2001

Waman Raghunath Kondgekar,
C/o Rukmini Keshiram Jadhav,
BMC Building, No.E/9 Room No.33,
4th Floor, Hemand Manjrekar Road,
Sardar Nagar No.3, Sion Koliwada,
Mumbai.

(By Advocate Shri S.S.Karkera)

- Applicant

Versus

1. Union of India
through the Director General,
Department of Telecommunications,
Sanchar Bhawan, Ashoka Road,
New Delhi - 110 001.

2. The Chief Superintendent,
Central Telegraph Office,
Fountain, Mumbai - 400 001.

3. The Accounts Officer,
O/o Chief Superintendent,
C.T.O. Fountain, Mumbai.
(By Advocate Shri V.S.Masurkar)

- Respondents

ORAL ORDER

By Hon'ble Mr.B.N.Bahadur, Member (A) -

The applicant comes up to this Tribunal with a prayer whereby he seeks interest at the rate of 18% p.a. on the amounts provided to him as pension. The period for which interest is sought is from 3.9.1985 to 16.8.2000.

2. The brief facts of the case are, in brief, that the applicant who started as an employee of the respondents in July, 1958 was compulsorily retired finally on 3.9.1985. He approached the Tribunal by filing an O.A. being O.A.1022 of 1996 seeking a declaration for entitlement to pension. This O.A. was dismissed.

...2/-

Against this order the applicant approached the Hon'ble High Court which has decided the matter through its order dated 19.4.2000, a copy of which is available between pages 18 and 23 in the Paper Book. Upon directions by High Court to the respondents for reconsideration of the matter, the respondents reconsidered the matter and authorised pension to the applicant through a P.P.O. dated 1.8.2000. This was followed by actual payment, admittedly, through Cheque No.647460 (Page 28). Now the grievance of the applicant is that he has not been provided with interest for the period between September, 1985 and 16.8.2000 (date of the issue of cheque).

3. The learned counsel for the applicant argued his case strenuously for interest on pension, making the point that he has been asking for interest right from the beginning; that he asked for that in the first OA and that it was also his prayer before High Court, as evident from the order of the High Court itself. In fact he argues that the respondent being ultimately granted pension is enough to prove that he has been wronged, and that he is eligible to interest. It was further argued by the learned counsel, Shri Karkera that the very order of the High Court justifies his claim for pension, it also shows that delay was not justified. He made the point that the only stand taken in defence by the respondents was that no Court including the High

128
..

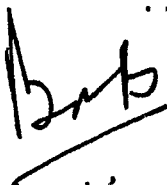
Court had granted this relief, and that this was not a viable stand.

4. The stand taken by the respondents in their written statement and in the argument taken by the learned counsel by Shri V.S.Masurkar, is mainly on the following points. It is stated that the delay was not caused due the mistake of the administration, or negligence, but that the legal position was not clear. Hence, the applicant is not entitled for interest on the pension amount paid. This point in fact was highlighted by the learned counsel who also made the point that the fact that none of the Courts had allowed the prayers for interest means as per settled law that the prayer had stood rejected. It was also pointed out that after the High Court's order, the decision was taken within the stipulated time and payment of cheque made promptly.

5. The written statement of the respondents attempts to meet the averments made in the OA parawise.

6. I have considered all papers in the case and the arguments made by learned counsel on both sides. The primary reasons for which interest is paid in such cases relates to negligence, delay lathargy or some similar cause. This is what will have to be seen with reference to the facts and circumstances of this case. The compulsory retirement came in 1985. The applicant moved an O.A. first before this Tribunal in 1996, and the final order of the Hon'ble High Court came in April, 2000. The applicant's prayer before the Hon'ble High

...4/-

A handwritten signature in black ink, appearing to be 'B. K. B.', written over a horizontal line.

Court are reproduced at page 2 of its judgment dated 19.4.2000. One prayer sought for direction to the respondents for grant of pension along with interest. Now the point will have to be decided as per the findings of the High Court and the orders made by it. In my view this will be the most important consideration that will lead us to decide whether interest is due to the Applicant or not.

7. The High Court has indeed discussed the merits and demerits of the case and has taken a view and reasons have been discussed on the basis of which reconsideration should be made. It is important to note that although the prayer existed before the Hon'ble High Court for clear direction in the matter for ordering pension, they have chosen not to do so but instead disposed of the matter by directions for a fresh decision by Respondents, in regard to payment of pension to the applicant. They have also directed that this will be done with due regard to the provisions of Rule 40 (i) of the Central Civil Services (Pension) Rules, 1972.

8. Now the important point is that they have not given a clear pronouncement that non-award of pension or withholding of pension is bad in law. In the face of the directions for reconsideration, this Tribunal cannot hold that the action of the respondents came as a result of administrative mistake, delay

128

....5/-

lathargy or any similar infirmity. Needless to say I am not going into the merits. Merely the fact that the ultimate decision of the respondents is positive towards the payment of pension does not ipso facto lead me "to the conclusion that interest was justified. Once we take the view that negligence, delay etc. can be the only cause for awarding of interest and considering the facts above, the Tribunal is not in a position to conclude that interest is due. In the consequence this OA is hereby dismissed.

No order as to costs.



(B.N. Bahadur)
Member (A)

mb