

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 1285/93

Transfar Application No: --

DATE OF DECISION: 1-6-94

Vasdev B.Bhatia Petitioner

Mr.G.S.Walia Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Mr.A.L.Kasturey Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman

The Hon'ble Shri --

1. To be referred to the Reporter or not ? NO
2. Whether it needs to be circulated to other Benches of the Tribunal ? NO


(M.S.DESHPANDE)
VC

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.1285/93

Vasdev B.Bhatia .. Applicant

-versus-

Union of India & Ors. .. Respondents

Coram: Hon'ble Shri Justice M.S.Deshpande
Vice-Chairman

Appearances:

1. Mr.G.S.Walia
Advocate for
the applicant.
2. Mr.A.L.Kasturey
Counsel for the
Respondents.

ORAL JUDGMENT: Date: 1-6-94
(Per M.S.Deshpande, V.C.)

The applicant seeks by this application interest @ 24% on the delayed payment of DCRG of Rs.51,996/- and commutation value of pension of Rs.67,279/-amounting to Rs.1,19,275/- and future interest together with Rs.30,000/- as compensation.

2. The applicant retired on superannuation on 28-2-1987 and his settlement dues became payable on 1-3-87. The DCRG payable on 1-3-87 was Rs.51,996/-. A departmental enquiry was pending against the applicant and he was ultimately exonerated in that enquiry. His provisional pension came to be fixed at Rs.1,610/- from 1-3-87 on account of pendency of the enquiry. The commutable amount of pension was Rs.536/- i.e. 1/3rd of the total pension residue Rs.1,074/- is payable as uncommuted pension.

The applicant was actually paid provisional pension of Rs.1,610/- from 1-3-87. The commuted value of the pension as on 1-3-87 is worked out to Rs.67,279/- He was, however, paid Rs.48,433/- by cheque dated 17-3-93 and DCRG amount of Rs.51,996/- by cheque dated 1-12-92. The departmental enquiry against the applicant was finalised on 15-6-92 by dropping the charges framed against him and exonerating him. According to the applicant the commuted value of the pension came to be calculated on the basis of his having retired on attaining the age of 62 years, though he would have been entitled to commute the pension from the date of superannuation i.e. 1-3-87. According to him the commuted value of the pension which should have been paid to him was Rs.67,279/- instead of Rs.48,433/-

3. It may be noted that the applicant, but for the departmental enquiry initiated against him which came to be ultimately dropped, would have been entitled to commute 1/3rd pension from the date of his superannuation w.e.f. 1-3-87. The respondents having dropped the enquiry and exonerated the applicant would not be entitled to determine the commuted value of pension from the date on which departmental enquiry came to be terminated. In view of what happened at the departmental enquiry it must be taken that departmental enquiry for the purpose of commutation of pension and payment of gratuity was not in existence and the applicant

should have been paid the commuted value of pension as it would have been worked out under the Rules as on 1-3-87. The applicant was therefore entitled to Rs.67,279/- as commuted value of pension by disregarding the departmental proceedings initiated against him.

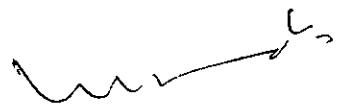
4. Mr.G.S.Walia, learned counsel for the applicant stated that the applicant had drawn the provisional pension at Rs.1,610/- instead of Rs.1,074/- which ~~should~~ have been permissible had commutation been effected from 1-3-87 and that the applicant is willing to adjust the excess ~~of~~ amount drawn as pension from the amount of which interest ^{which} ~~1~~ should be payable to him on account of delayed payment of the commuted pension. The applicant would be entitled to interest on the commuted value of Rs.67,279/- w.e.f. 1-3-87 @ 10% p.a. as no interest ~~had~~ been paid on this amount. The applicant, therefore, will be entitled for a direction against the respondent to have interest paid to him @ 10% p.a. on the commuted value of Rs.67,279/- w.e.f. 1-3-87 to 16-3-93, less the amount of excess pension which he has already drawn @ Rs.536/- ~~per month~~.

5. The second point urged on behalf of the applicant is that interest has not been properly paid on the DCRG. The applicant has been paid interest on the DCRG @ 7% for a period of nine months beyond the first three months after superannuation and @ 10% p.a. for the entire period beyond the expiry of the first year after retirement. The controversy is only

with regard to the interest payable for the first three months. Shri Kasturey, learned counsel for the respondents urged that the applicant would not be entitled for any interest for the period of first three months in view of the Railway Board's letter dated 14-9-84 read with letter dt. 1-1-83 which has been extracted in Bahri's Guide to Railway Pension and Retirement Benefits. Clause (b) says that "In case of Railway servants against whom disciplinary or judicial proceedings have been instituted and on the conclusion of proceedings they are fully exonerated, the interest on delayed payment of Death gratuity/Retirement gratuity may be allowed in their cases. In such cases, the gratuity will be deemed to have fallen due on the date following the date of retirement for the purpose of payment of interest on delayed payment of gratuity." This will obviously mean that the interest @ 7% p.a. would be payable for the entire period of one year following retirement and not only for the period of nine months beyond the period of first three months after retirement. The applicant would be therefore entitled to interest @ 7% p.a. for the period of first three months after his superannuation.

6. In result the application is allowed. Respondents ~~do~~ pay to the applicant the difference in the amount of commuted value of pension Rs.18,846/- which remained to be paid. Respondents are directed to

pay to the applicant interest @ 10% p.a.
on the amount of commuted value of pension
Rs.67,279/- which became payable on 1-3-87
less the excess pension which has been paid
@ Rs.536/- to him from 1-3-87 to 16-3-93.
Respondents shall also pay to the applicant
interest on the DCRG ~~fix~~ amount of Rs.51,996/-
@ 7% p.a. for period of three months from
the date of his superannuation i.e. 1-3-87.
The respondents shall calculate these
amounts and pay them to the applicant
within a period of three months from the
date of communication of this order.


(M.S.DESHPANDE)
Vice-Chairman

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