

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No: 100/94

Transfer Application No:

DATE OF DECISION: 6-12-94

L.V. Subbarao Petitioner

Shri.S.P. Saxena Advocate for the Petitioner

Versus

Union of India & Ors. Respondent

Shri. R.K. Shetty Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri M.R. Kolhatkar, Member (A)

The Hon'ble Shri

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

M.R. Kolhatkar  
(M.R. Kolhatkar)  
Member (A)

J\*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A. 100/94

L.V. Subbarao

... Applicant

Vs.

Union of India & Ors.

... Respondents

CORAM : Hon'ble Shri.M.R.Kolhatkar, Member (A)

APPEARANCES :

1. Shri. S.P. Saxena, Counsel  
for applicant
2. Shri. R.K. Shetty, counsel  
for respondents

JUDGMENT

DATED : 6-12-94

X Per Shri.M.R.Kolhatkar, Member (A) X

The applicant joined M.E.S Organisation as Asstt. Executive Engineer on 15.2.1963 and he was promoted as Executive Engineer with effect from 24/12/1976. He was promoted to the post of Superintending Engineer with effect from 12/11/1986 carrying pay scale of Rs.3,700 - Rs.5000. The Government of India, Ministry of Personnel O.M. dated 9/11/1987 (Exhibit 'A4') was circulated by Ministry of Defence on 16/11/1987 but the respondent organisation circulated the same on 12/3/1988. The applicant shortly thereafter, namely 17/3/1988, exercised option in terms of the instructions dated 9/11/1987. However, his option was not accepted on the ground

that it was not received within three months of the instructions dated 9/11/1987 and therefore while denying the pay fixation, the applicant was asked to make the refund of Rs. 11,451. Interim Relief was granted <sup>by this Tribunal</sup> ~~/staying~~ the recovery. Subsequently, the revised pay fixation was done after taking into account the option exercised by the applicant in terms of memorandum referred to above, namely dt.9.11.87. The recovery ~~order~~ in respect of Rs.11,451 was cancelled on 24.8.94 and the arrears of pay amounting to Rs.5,092 were paid on 23/9/94. The applicant has since retired on 31.8.94 and at the argument stage, the applicant confined his relief only to two items, namely interest on arrears of pay <sup>claimed</sup> ~~/with~~ effect from 1/1/1986 to 23/9/94 and cost of Rs.2,000/- in as much as the applicant was asked to make refund and proper pay fixation was done only after he approached the Tribunal. In our view, it is ~~now~~ well settled after the decision of Supreme Court in Justice S.S. Sandhawalia's case ((1994) SCC (I&S) 530) that a government employee is entitled to payment of interest in the discretion of the Court on any dues ~~to~~ which he is entitled at the time of retirement and in the payment of which there is unjustified delay. So far as the period for which the interest is to be allowed, the applicant has exercised option on 18/2/1988 and the applicant could reasonably expect payment within three months from the date of exercising of option. We, therefore, consider that the applicant is entitled to payment of interest from 18/5/1988 upto the date of actual payment, namely 23/09/1994 at 12% interest (simple).

2. Regarding grant of cost, the applicant relies on the case of Mrs. Sugandhabai V. Garrison Engineers which was a case <sup>viz. O.A. 561/87</sup> decided on 31.5.88 by Single Bench of the Tribunal reported at (1989) LAB. IC 180. In that case, the costs were quantified and allowed because the applicant was unnecessarily forced to approach the Tribunal in spite of a pre-existing order of the learned Civil Judge. That is not the case in this particular case. We are therefore not inclined to allow costs.

3. The O.A is therefore allowed in terms of the orders in respect of interest as indicated above with no order as to costs.

*M.R. Kolhatkar*  
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(M.R. Kolhatkar)  
Member (A)

J\*