

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 1118/95

Transfer Application No: ---

DATE OF DECISION

16-2-96

Y.Lalithamba

Petitioner

Mr.B.Dattamoorthy

Advocate for the Petitioners

Versus

U.O.I. & Ors.

Respondent

Mr.R.C.Kotiankar

Advocate for the Respondent(s)

CORAM:

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

The Hon'ble Shri ---

1. ~~Whether Reporters of local papers may be allowed to see the Judgement ?~~
2. To be referred to the Reporter or not ?
3. ~~Whether their Lordships wish to see the fair copy of the Judgement ?~~
4. Whether it needs to be circulated to other Benches of X the Tribunal ?

M.R.Kolhatkar

(M.R.KOLHATKAR)
Member(A)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. 1118/95

Presented this, the 16th day of Feb. 1996

CORAM: HON'BLE SHRI M.R.KOLHATKAR, MEMBER(A)

Y.Lalithamba,
(Legal representative of
late Y.Subba Rao) .. Applicant
(By advocate Shri B.Dattamoorthy)

-versus-

1. Union of India,
through
Chairman,
Telecom Commission,
Sanchar Bhawan,
Ashok Road,
New Delhi - 110 001.
2. The Chief General Manager
Mahanagar Telephone Nigam Ltd.,
Bombay - 400 028.

(By Advocate Shri R.C.Kotiankar) .. Respondents

O R D E R
(Per M.R.Kolhatkar, Member(A))

In this O.A. u/s. 19 of the A.T.Act the applicant who was a Senior Time Scale of ITS Group 'A' officer retired from Govt. service on superannuation on 31-5-92. However, disciplinary proceedings pending against him undr Rule 14 of the CCS(CCA) Rules were continued under Rule 9 of CCS(Pension) Rules,1972. These disciplinary proceedings were dropped by the President by order dt.12-7-94 but the displeasure of the President was communicated for the irregularities established on the part of the applicant during the enquiry. The main prayer of the applicant is that although provisional pension was granted to him, DCRG and commutation value of pension were withheld and the same are directed to be paid to him with 18% interest on the withheld amounts when it became due.

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2. The applicant expired during the pendency of the O.A. on 9-10-94. MP 862/95 was filed to bring his widow Y. Lalithamba on record. The MP was allowed on 4-12-95 because it is well settled that the legal representative of the deceased employee can prosecute the relief of a pecuniary nature and the only issue is whether the widow of late applicant is entitled to any relief and if so what.

3. The respondents in their written statement have opposed the admission of the O.A. on the ground that it is vitiated by multiplicity of prayers. We are unable to accept this contention because although the applicant had referred to various representations made by him in the matter of grant of promotion to Junior Administrative Grade, the reliefs in the O.A. are confined only to release of DCRG, Commutation value of pension and interest thereon.

4. On the point of payment of DCRG and commutation value of pension it is stated that the same have been paid viz. DCRG Rs.74,250/- and commutation value of Rs.94,140/- on 4-12-95. That relief also does not survive.

5. ^{then} The question is whether the applicant/his legal representative is entitled to interest on the delayed payment of DCRG and commutation value of pension. The counsel for the applicant argues that the applicant superannuated on 31-5-92 and therefore interest should be paid from 1-6-92 upto the date of payment viz. 4-12-95. In this regard he relies on

Supreme Court judgment in the case of State of Kerala vs. M. Padmanabhan Nair, AIR 1985 SC 356, wherein the Supreme Court had held that any culpable delay in settlement and disbursement of pension and gratuity must be visited with the penalty of payment of interest at the current market rate till actual payment and that the liability to pay penal interest should commence ~~at the~~ ^{at the} expiry of two months from the date of retirement.

6. The counsel for the respondents, however, contends that since the applicant was not completely exonerated in the disciplinary proceedings no interest can be directed to be paid. The President's order were available on 12-7-94 and since the case pertained to MTNL Bombay some time was taken for finalising the case and the payment was actually made on 4-12-95 and therefore the department is not liable to pay any interest.

7. I have considered the matter. It is well settled that in case the disciplinary proceedings or judicial proceedings end in complete exoneration of the applicant then he is entitled to all the benefits including DCRG and commutation value of pension from the date of retirement. In this particular case, perusing the order of the President it is clear that the applicant was not completely exonerated. In fact the inquiring authority had held article-II of the charges partly proved but the President held that in the matter of Article(I) of the charge the conduct of the applicant was not entirely free from blame. Thus the President held ^{that} two of the three charges

were proved against the applicant but decided to take a lenient view and ordered the disciplinary proceedings to be dropped, simultaneously communicating the displeasure to the Govt. employee.

I am, therefore, of the view that the applicant remaining is entitled to all the pensionary benefits from the date of his retirement, but he would be entitled to these benefits only from the date the disciplinary proceedings were dropped. Following the ratio of State of Kerala vs. M. Padmanabhan Nair respondents were bound to pay to the applicant the gratuity and commutation value of pension two months from the relevant date viz. 12-9-94. Since the department actually made payment only on 4-12-95 I hold that the legal representative of the applicant viz. Smt. Y. Lalithamba is entitled to interest @ 18% on the amount of Rs. 1,68,390/- for the period from 12-9-94 to 3-12-95. The respondents are directed to calculate and make payment of the interest accordingly within two months of the receipt of this communication. O.A. is allowed in these terms. There would be no order as to costs.

M.R. Kolhatkar

(M.R. KOLHATKAR)
Member (A)

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