

CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A.No. 1350/95

Date of Decision 15/3/96

Dr. Prabhakar R Honwad Petitioner

Shri Suresh Kumar Advocate for the Petitioner.

Versus

The Administrator of U.T. Respondent

Daman Diu & Dadara Nagar Haveli

Ms. Shenoy for Advocate for the Respondents.

Shri V.S. Masurkar

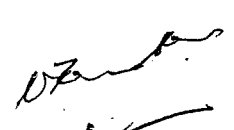
Coram:

The Hon'ble Mr. V. Ramakrishnan, Member (A)

The Hon'ble Mr.

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

abp.


(V. RAMAKRISHNAN)
MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL

GULESTAN BLDG.NO.6,PRESCOT ROAD, 4TH FLOOR?

MUMBAI - 400 001.

ORIGINAL APPLICATION NO.1350/95

DATED THE 15TH DAY OF MARCH, 1996.

CORAM : Hon'ble Shri V.Ramakrishnan, Member (A).

Dr.Prabhakar R Honwad ... Applicant
(Advocate by Shri Suresh Kumar)

v/s.

The Administrator of U.T. of Daman ... Respondents
Diu & Dadara Nagar Haveli
(Advocate by Shri V.S.Masurkar)

X ORDER X (ORAL)

X Per Shri V.Ramakrishnan, Member (A) X

The applicant who was a Senior Lecturer in a Government College Daman and had put in about 23 years service prior to retirement on 31/10/94. He is aggrieved by the delay in payment of retiral benefits due to him on his superannuation.

2. He filed the OA in November, 95 where he prayed ~~that~~ the direction to the respondents that all the retiral dues to him may be paid to him with 18% interest. On the basis of the directions of the Tribunal, a large part of the sums due to him have since been paid to him by respondents and the present question essentially relates to payment of interest on delayed payments as also releasing a sum of about Rs.5,000/- which has been deducted from his dues as alleged overpayment for the period from 1/1/86 to 31/10/94.

3. Heard Shri Suresh Kumar for applicant and Ms. Shenoy for Shri Masurkar for respondents.

4. Shri Kumar submits that some months prior to his retirement there was a move by the administration to bring down the pay of the applicant. In view of

this the applicant has not been drawing his salary for about 8 months from 1/3/94 till the date of superannuation even though he had signed the bills. Shri Kumar however submits that this was not sufficient ground for the department to hold back his retiral benefits. In this connection, he draws our attention to representation submitted by him starting on 15/11/94, 31/12/94 and 5/1/95 at Exhibit A-7, where he contends that the official had asked for release of his retiral benefits and for delinking the same from the dispute pertaining to deduction in his pay on his being brought over ~~to~~ UGC's scale.

5. Ms. Shenoy for respondents contends that there has been some delay in payment of dues but the same is attributable to the applicant as he had not actually drawn the pay for 8 months prior to his superannuation and this has created problem for administration for calculating pension and other amounts due to him.

6. As has been brought out earlier, on the basis of the Interim directions given by Tribunal, the applicant has since received the retirement Gratuity, Commutation value of pension, the payment of GPF and provisional salary for 8 months, his contribution to the savings account in the Group Insurance Scheme as also the leave encashment. However, there is some controversy pertaining to interest and also in respect of a sum of about Rs. 5,000/- which has been held back by the respondents. Shri Kumar now restricts his claims to only these two issues. Shri Kumar strongly contends that the applicant is entitled to interest @ 18%. He draws my attention to the Supreme Court decision in R. Kapur v/s. Director of Inspection (Painting and Publication) Income Tax and Another. He has claimed for interest in respect of various entitlements as follows:-

(1) Interest on retirement gratuity. A sum of

Rs.81,900/- which had since been paid to him sometime in 96. The applicant is entitled to interest on this from the date of superannuation till the date of payment.

(2) The applicant was allowed to commute 1/3 of his Pension amounting to Rs.71,932/-. While intimating the bank, the Central Pension Accounting Office mentioned commuted value to be paid by bank as Nil. Subsequently, this mistake has been corrected. He has received the commutation value very recently. *he should be given interest on the same*

(3) As regards GPF, the amount to his credit as on 31/3/94 was 3,76,048/-. The department had calculated from 1/4/94 up to 31/10/94 the interest and had released on 3/1/96. He submits that the applicant is entitled to interest on the same from 1/11/94 up to the date of payment.

(4) He also mentions that sum of Rs.16,350/- has been deducted from his provisional salary for 8 months from 1/3/94 to 31/10/94 on account of GPF and this amount should also be paid to him with interest.

(5) The net provisional salary for 8 months from 1/3/94 to 31/10/94 has since been paid by the department in February, 96. He seeks interest on this amount also from the date the salaries became due.

(6) As regards the savings fund under the Group Insurance Scheme and leave encashment the applicant is claiming interest from the date of superannuation till the date of payment.

7. I have carefully considered the submissions of both sides. It is true with regard to salary from 1/3/94 to 31/10/94, the applicant strongly feels regarding the cut in his emoluments, and he had not *drawn*

the salary for about 8 months prior to superannuation. He had signed the pay bills but had refused to draw his pay as he felt that the deduction was unjust. However, the question of reduction of pay was while he was in service. It does not absolve the department from making payment of Gratuity and Commutation and all other retiral benefits as per their own figures and release the same to the applicant without delay. In the facts and circumstances of the case, I hold that the applicant is entitled to interest on some of the various claims and I direct as follows:-

- (a) I direct that respondents will pay interest on retirement Gratuity from 1/2/95 up to the date of payment @ 12%.
- (b) As regards, commuted value of Pension, the delay is attributable to the department such as wrong intimation to the bank. Here the applicant is entitled to interest @ 12% from 1.11.94 upto the date of payment.
- (c) As regards GPF, it was incumbent on the part of the department to release the accumulated amount in the GPF soon after his retirement. The action of the respondents in calculating the interest only upto 31/10/94 which is the date of superannuation cannot be accepted. Interest is to be paid on GPF amount @ 12% till the date of actual payment ^{the} of same.
- (d) There is a deduction of about Rs.16,350/- on account of GPF from the arrears paid bills of the applicant for the period 1.3.94 to 31.10.94. The applicant will be paid interest on this amount also alongwith the principal amount from the date of deduction till the date of payment.
- (e) As regards claim of interest on salary for 8 months, I see no justification for the same as the conduct of the applicant also had contributed to the delay,

(f) The applicant is entitled to interest on the savings fund of the Group Insurance Scheme from 1/11/94 till the date of payment and also on leave encashment from 1/11/94 till the date of payment.

8. Shri Kumar submits that in the pay slip given to him indicating the details of calculations, a sum of Rs. 4,959/- has been held back by the department as recovery of over payment for the period from 1/1/86 to 31/10/94. The applicant is not aware as to the nature of such alleged overpayment.

The Learned Counsel submits that in case of any wrong fixation of pay, the same may be got corrected by the department only after taking appropriate steps such as issue of show cause notice and getting his explanation.

9. On this issue I hold that since the department has already deducted the sum they may retain the same but they are required to take action as per law and take whatever consequential steps ^{become} seems necessary. If it ^{is} transpires after such exercise, if the official is entitled to any refund, he will be entitled to interest ^{at} @ 12% on the refund from the date of with-holding the same till the date of payment.

10. The respondents will comply with the above directions within 3 months from the date of receipt of copy of this order. The OA is finally disposed of as above with no orders as to costs.


(V. RAMAKRISHNAN)
MEMBER (A)

abp.