

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 87/95.
Transfer Application No.

Date of Decision : 29-3-1996

S.R.Lohokare.

Petitioner

Shri S.P.Kulkarni

Advocate for the
Petitioners

Versus

Union of India & Anr.

Respondents

Shri S.S.Karkera.

Advocate for the
respondents

C O R A M :

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? X

M.R. Kolhatkar

(M.R. KOLHATKAR)
MEMBER(A).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 87 / 1995.

this 29th day of March 1996.

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

S.R. Lohokare. ... Applicant.
(By Advocate Shri S.P. Kulkarni)

V/s.

Union of India & Anr. ... Respondents.
(By Advocate Shri S.S. Karkera).

O R D E R

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

The applicant retired on superannuation as Assistant Postmaster, Pune Head Office on 30.9.1989. Prior to superannuation, minor penalty proceedings were initiated against him by the charge sheet dt. 31.3.1989. As the same could not be finalised by the date of superannuation of the applicant there were deemed proceedings under Rule 9⁽²⁾ of the C.C.S. (Pension) Rules. The applicant was sanctioned provisional pension from 1.7.1989, but various pensionary benefits were paid late to him. The proceedings against him came to be dropped by the President of India by his order dt. 5.8.1993. The various pensionary benefits came to be paid to him is as below :

		<u>Due on</u>	<u>Paid on</u>
1. D.C.R.G.	Rs.29,700/-	1.10.1989	3.9.1993
2. Leave en- cashment	Rs.19,660/-	1.10.1989	13.10.1993.

The relief claimed by the applicant is to sanction interest at the rate of 18% on all pensionary benefits from 1.10.1989 till the date of payment. The applicant relies on Government of India decision dt. 11.7.1979 and 10.1.1983 under the relevant pension rules which reads as below :

"In order to mitigate the hardship to the Government servants who, on the conclusion of the proceedings are fully exonerated, it has been decided that the interest on delayed payment of D.C.R.G. may also be allowed in

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their cases, in accordance with the aforesaid instructions. In other words, 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. The benefit of these instructions will, however, not be available to such of the Government servants who die during the pendency of judicial/disciplinary proceedings against them and against whom proceedings are consequently dropped."

2. The respondents have opposed the prayer of the applicant. According to them, the case for sanctioning interest on admissible rate of delayed payment on D.C.R.G. for the period beyond retirement is under process as it would require obtaining sanction of the Competent Authority as contemplated by Rule 68 of the Pension Rules. Insofar as the encashment of leave is concerned, it is contended by the respondents that as per the Rule 79(3), the Competent Authority ^{can withhold} cash equivalent for leave salary and an official becomes eligible only on conclusion of the departmental proceedings, if any and there is no provision in the rules to pay any interest.

3. The applicant relies on the case of Pritam Singh V/s. Union of India & Ors. reported at (1991(1) ATJ 600). This is a Judgment of Chandigarh Bench of the Central Administrative Tribunal delivered on 22.2.91. The Tribunal held that it is quite evident from the rules that the payment of the amount of leave encashment has to be ordered by the authorities suo moto and the retiring employee need not submit any application in this regard and the applicant was amply justified in claiming normal interest for the period of delay which was not due to any negligence on his part. He also relies on the case of R. Kapur V/s. Director of Inspection (Painting and Publication) Income Tax and Another decided by the Supreme Court on 29.9.1994 vide (1994)(28 ATC 516) in which the Hon'ble Supreme Court had allowed interest at 18% on delayed

payment of gratuity.

4. The respondents do not appear to have seriously disputed the entitlement of the applicant for grant of interest as per rules when departmental proceedings against him were dropped. It is noted that the proceedings were dropped on 5.8.1993 and the O.A. has been filed on 28.12.1994. The Respondents have promptly paid D.C.R.G., but have delayed payment of interest which is due to him under the rules which have been correctly relied upon by the applicant to the effect that the gratuity should ~~have~~^{be} deemed to have fallen due on the date following date of retirement for the purpose of ^{payment of} interest on delayed payment of gratuity. So far as the interest on the delayed payment of amount of leave encashment is concerned it is not governed by any rules but the payment of interest in such cases would be governed by the ratio of Pritam Singh. With this difference that the logic of "relation back" which applies to the payment of interest in the case of gratuity would also apply to the payment of leave encashment, keeping in view the ratio of Pritam Singh.

5. I am therefore, of the view that the applicant is entitled to succeed and dispose of this O.A. by passing the following order :

ORDER

The O.A. is allowed. The respondents are directed to make payment of interest at the rate of 12% on gratuity amount from 1.10.1989 up to the date of payment. The Respondents

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are also directed to make payment of interest at the rate of 12% on the amount of leave encashment from 1.10.1989 up to the date of payment. There would be no orders as to costs.

M.R. Kolhatkar

(M.R. KOLHATKAR)
MEMBER (A).

B.