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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 197/1995

Transfer Application No.

Date of Decision 29-3-1996

C.M.Thomas Kutty & Ors.

Petitioner/s

Shri S.P.Kulkarni.

Advocate for
the Petitioners

Versus

Union of India & Ors.

Respondent/s

Shri R.K.Shetty.

Advocate for
the Respondents

CORAM :

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

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).

6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 197/1995.

_____ the _____ day of _____ 1996.

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

C.M.Thomas Kutty & Ors. ... Applicants.
(By Advocate Shri S.P.Kulkarni).

V/s.

Union of India & Ors. ... Respondents.
(By Shri Ravi Shetty for
Shri R.K.Shetty)

O R D E R

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

In this O.A. four applicants who were previously working as Borer(s) & Fitter(s) in Machine Tool Prototype Factory (M.T.P.F.), Ambarnath and who are now working as Air-craft Technicians in Air India have alleged that there has been undue delay in the disbursement of Pension, D.C.R.G. and commutation amount i.e. the pro-rata pensionary benefits to which they are entitled in terms of Section II (1) of Appendix 12 of Swamy's C.C.S. (Pension) Rules, 1972 which govern pro-rata pensionary and other benefits to Central Government employees absorbed on permanent basis in Central Autonomous Bodies. According to the applicants they were absorbed on different dates viz. 1.11.1989 - Applicant No.1, 19.4.1990 - Applicant No.2, 17.5.1990 - Applicant No.3 and 29.3.1990 - Applicant No.4. However, till the date of filing of the O.A. viz. 20.1.1995 the pro-rata pensionary benefits were not disbursed. The applicants also claim interest at the rate of 18% from the date of absorption till the date of payment on the delayed payment on pensionary benefits.

7

2. The Respondents have admitted that the applicants were absorbed on the dates indicated, but have denied that there has been an unreasonable delay in the matter of issue of orders relating to payment of pro-rata pensionary benefits. It is contended that the respondents had taken in hand the task of finalising the orders relating to the pensionary benefits. The respondents had supplied to the applicant with relevant forms and documents, but the same were returned by the applicants between 11.6.1990 and 26.2.1991, thereafter, permanent absorption certificate was furnished by Air-India only in March, 1992, thus up to March, 1992 the claim for pro-rata pensionary benefits could not be processed. Subsequently, the applicants filed revised options viz. option for monthly pension instead of lumpsum payment and submitted their claim for monthly pension only on 21.2.1994. So far as commutation of pension is concerned, the medical certificates have not yet been signed by the Medical Board and as such it is contended that the applicants do not have any entitlement ^{on} _{to} on date, to receive commuted value of pension and no question of delay arises.

3. The case of the Respondents for there not being a delay ^{is} mainly based on revised option filed by the applicants. The respondents were, therefore, specifically directed to state as to whether the the revision of the option as between monthly pension and lumpsum payment can make any difference to the D.C.R.G. payable to the applicants. It has been clarified that there is no difference on D.C.R.G. payment to the applicants under the lumpsum pension scheme on the one hand and the monthly pension scheme

9

on the other. It is further to be observed that the sanction for monthly pension and D.C.R.G. was admitted by C.D.A. by its letter dt. 12.1.1995. I have already noted that the O.A. was filed on 20.1.1995. So far as the claim for interest on monthly pension is concerned it is not disputed that the same was accepted by the respondents ^{dehors} the rules. That was a concession granted by the respondents to the applicants. The contention of the applicants that it was because of the delay in the sanction of lumpsum payment that they opted for monthly pension cannot be accepted because it is not their case that they were forced to opt for a monthly pension. I therefore, find that there has been no unreasonable delay so far as the sanction of monthly pension is concerned and therefore, the applicants are not entitled to any interest on that account. So far as the commutation value of pension is concerned, I accept the contention of the respondents that since ^{the} ~~pre~~-requisite for ^{to} ~~commutation~~ is medical certificate which is not yet available, there is no question of payment of any interest. However, so far as the gratuity is concerned it would appear that there has been a delay in the payment of the same, because the gratuity is independent of the option as between lumpsum payment and monthly pension. The claim of the respondents to the gratuity amount can be said to have matured in March, 1992 when the absorption certificate was furnished to the respondents. The gratuity amount ought to have been paid to the applicants within three months of the date viz. latest by June, 1992. In fact sanction in this

9

Regard admittedly was issued only on 12.1.1995. The applicants are entitled to 12% interest on the delayed payment of gratuity from June, 1992 up to the date of payment. I therefore, dispose of this O.A. by passing the following order :

O R D E R

The O.A. is partly allowed. The applicants are held to be entitled for interest for the delayed payment of gratuity for the period from July, 1992 up to the date of payment. ~~of monthly pension.~~ The respondents are also directed to expedite the case of commutation of pension and in any case, pass orders in this regard within three months of the communication of this order. There will be no orders as to costs.

M.R. Kolhatkar

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

B.