

CENTRAL ADMINISTRATIVE TRIBUNAL  
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 1038 /1995

Date of Decision: 13<sup>th</sup> Nov. 96

Smt. Asha Shripad Nazare

Petitioner/s

Mr. S.P. Saxena

Advocate for the  
Petitioner/s

V/s.

UOI & Ors.

Respondent/s

Mr. R K Shetty

Advocate for the  
Respondent/s

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 ? X

M.R. Kolhatkar

MEMBER (A)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, 'GULESTAN' BUILDING No.6  
PRESCOT ROAD, MUMBAI 400001

O.A.No.1038 OF 1995

DATED: 13-11-1996

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

Smt. Asha Shripad Nazare  
(wife of late Shri Shripad  
Moreshwar Nazare, AE/BR),  
Indira Heights, Bldg.No.3  
Flat No.3-A, Paud Phata,  
Pune 411038  
(By Adv. Mr. S.P.Saxena)

..Applicant

V/s.

1. The Union of India,  
through the Secretary,  
Ministry of Defence,  
New Delhi 110001.
2. Engineer-in-Chief,  
Army Headquarters,  
Kashmir House, Rajaji Marg,  
New Delhi 110011
3. The Commander  
Works Engineer (AF)  
Lohegaon, Pune 411032.
4. Garrison Engineer (AF)  
Lohegaon, Pune 411032  
(By Adv. Mr.R.K.Shetty)

..Respondents

ORDER

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[Per: M.R.Kolhatkar, Member(A)]

1. This is an O.A. filed by the widow of the deceased Government servant who had given notice of voluntary retirement on 8.12.92 and which was accepted after three months w.e.f. 8.3.93. It appears, however, that because of lack of clarity regarding the position in rules and intra-departmental correspondence, the pension

payment order was issued only on 23.9.94, vide Annexure R7 to the written statement. The applicant had claimed interest for the delay in respect of payment for the period from 8.3.93 to October 1994 but the same was not considered and the applicant expired on 28.5.95. The O.A. is filed by the widow on 1.7.95.

2. The case of the applicant is that her husband was not well as he was paralyzed. He was on leave from March 1992. It was during the leave period that he gave notice of voluntary retirement. In terms of Rule 68 of C.C.S. Pension Rules, in case there is a delay in payment of gratuity, payment of interest can be sanctioned by the Administrative Ministry and her husband had sought payment of interest and there was no reply thereto. With regard to pension also, the case law is settled that in case of delay in payment of pension a Government employee is entitled to payment of interest even at commercial rate and that although the applicant's husband had sought payment of provisional pension, the same was not paid to him. Therefore, payment of interest is prayed on various retiral benefits such as pension, GPF, gratuity etc., from the date they were due till they were actually paid.

3. The respondents have opposed the O.A. According to them, there was a delay in processing of the papers and part of the delay was on account of the applicant himself, that the applicant's husband had not attached the audit certificate regarding verification of qualifying service, that he had not deposited the outstanding Government dues amount<sup>ing</sup> ~~to~~ about Rs.3,000/- towards TA/DA advance taken by him, and due to his physical disability could not furnish in time various details required for acceptance of voluntary retirement. They further contend that while pension papers can be prepared in advance, in the case of a Government employee who retires on superannuation, in case of voluntary retirement, the Government departments do not have adequate time to process and therefore in such cases, any order for payment of interest is not warranted. The respondents have also raised the issue of locus standi of the applicant inasmuch as she is not a government employee but a widow of the Government employee.

4. So far as the locus standi of Government employee is concerned it has been pointed out that she is a nominee of the deceased Government employee and even otherwise as a legal

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representative she is entitled to pursue the monetary claims in respect of her husband.

5. I hold that in view of what is stated by the applicant and in view of relevant provisions of CPC the applicant in the present case has legal standing to prosecute the matter.

6. So far as the circumstances mentioned by the respondents allegedly attributable to the applicant are concerned, I am unable to accept the same. The verification of service is the responsibility of the Government and not of the employee under Rule 25 of CCS Pension Rules and in the present case since the applicant had completed 25 years of service, the verification of service ought to have been done suo-motu by the respondents. Regarding outstanding dues they were of a small amount and it could have been possible for the respondents to process the case without prior deposit of the amount particularly when the applicant was paralysed. More over I notice that on 7.10.93 certain pension papers were received by him and he completed the same promptly on 10.10.1993. The deceased Government employee cannot therefore be held responsible for any delay.

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7. So for as <sup>concerns</sup> the distinction that is sought to be raised by the respondents, between normal retirement and voluntary retirement, the Government instructions are very clear in this respect vide GOI decision under Rule 68 reproduced at page 149 Swamy's ~~of~~ Pension Compilation, 1993 edition. The relevant portion reads as below:-

|| (ii) On retirement other than on superannuation:

Such cases of retirement will be either under clause (j) or clause (k) of FR 56 or Rules, 38, 39, 40, 48 or 48-A of the CCS (Pension) Rules, 1972. In such cases the pension sanctioning authority does not get adequate time for processing pension papers, as is available to it in the case of retirement on superannuation. Instructions have already been issued from time to time that the work relating to verification of service should be done on year to year basis and should not be kept in arrears. Provisions also exist that on completion of 25 years qualifying service or on one being left with five years service before the date of retirement, whichever is earlier, the Head of Office should verify the service rendered by such Government servant and communicate to him the period of qualifying service as determined vide Rule 32 of the CCS(Pension) Rules, 1972. It is, therefore, expected that even in cases of retirement other than on superannuation it should not take unduly long time for all Heads of Offices to prepare pension papers of retiring employees. It has, therefore, been decided that where the payment of gratuity in such cases is delayed beyond six months from the date of retirement,

interest should be paid for the period of delay beyond six months from the date of retirement. "

8. Counsel for the respondents has relied on two case laws which according to him would disentitle the applicant from payment of interest. In A.N.SHARMA Vs. UNION OF INDIA & ORS., A.T.R.1987(2) C.A.T.377 interest on pension was not allowed since the question involved was that of nature of service. The case does not apply to the facts of the present case. In SISIR KUMAR BANERJEE Vs. UNION OF INDIA, [1990]14 ATC 646, the relief for payment of interest was denied because it was a case in which the Government employee failed to hand over charge of stores of a huge amount of Rs.8 lacs. That is not the case in the present O.A. and hence this case also does not apply.

9. In view of the above discussion O.A. succeeds and accordingly O.A. is allowed and disposed of with the direction to the Respondents to make payment of 12% per annum interest on various pensionary benefits, other than the pension, from the date they became due till the date they were actually paid and @18% per annum on the pension from the date it became due and till the date it actually became payable. An interval of six months would be allowed in the

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former case and an interval of 3 months would allowed in the latter case i.e., to say the interest would commence from 8.9.93 in case of pensionary benefits other than pension and from 8.6.93 in the case of pension. There would be no order as to costs.

*MR Kolhatkar*

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(M.R.Kolhatkar)

Member(A)

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