

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

R.P.NO. 8/98 in OA.NO.98/97

this the 24th day of June 1998

CORAM : Hon'ble Shri D.S.Bawaja, Member (A)

Mrs. Asha A.Puranik ... Applicant

By Advocate Ms.Neelima Gohad

V/S.

Union of India & Ors. ... Respondents

By Advocate Shri R.R.Shetty
for Shri R.K.Shetty

Tribunal's Order

This Review Application has been filed
by the respondents seeking a review of order dated
20.11.1997 in OA.NO. 98/97.

2. The Hon'ble Member who had passed the
order dated 20.11.1997 has since retired. In view
of this, a new Bench has been constituted and the
review application is being disposed of after hearing
the parties. Heard the arguments of Ms.Neelima
Gohad, learned counsel for the applicant and Shri
R.R.Shetty proxy to Shri R.K.Shetty, learned counsel
for the respondents.

3. The Hon'ble Supreme Court has held through
several judgements that the power of review may be
exercised if there is some mistake or error apparent
on the face of record or discovery of new and important
matter or fact which after the exercise of due diligence
was not within the knowledge of the person seeking

and review could not be produced by him at the time when the order was made. The power of review is not to be exercised on the ground that the decision was erroneous on merits. The review of the order cannot be sought in disguise as an appeal.

4. Keeping the above parameters in view, the pleadings made to lay the foundation for seeking the review of the order dated 20.11.1997 have been carefully considered. It is noted that except in the case of payment of interest in respect of the payment of GPF, for the other issues, the averments have been made to seek the review of the order with regard to the payment of interest on merits. The respondents have pointed out various rules with regard to the admissibility of payment of interest for the commuted value of pension, gratuity and arrears of pension and the period for interest payment should have been allowed to the applicant. The learned counsel for the applicant during the arguments fairly conceded that through this review application, the review of the decision is sought on merits. As indicated earlier, the power of review cannot be exercised on the ground that the decision was erroneous on merits. It is noted that the review application is more of an appeal in disguise. In this view of matter, the review application is not sustainable except with regard to the payment of interest for GPF where it is noted that there is error apparent on the record. The respondents have brought out that the GPF payment was received by the applicant on 30.8.1993.

This is also brought out in the order dated 20.11.1997 in Para 3. The learned counsel for the applicant also admitted of having received the payment on 30.8.1993. However, that it is noted as per the direction in Para 7 of the order dated 20.11.1997, the payment of interest @ 12% has been ordered to be paid on GPF also for the entire period upto 23.4.1994. Since the payment of GPF has been received by the applicant on 30.8.1993, it is obvious that the interest is due for delayed payment upto this date. The respondents have also contended that the cheque for payment was ready on 12.1.1993 and therefore the interest payment will be admissible only after this date. This argument of the respondents is not convincing as the payment has been actually received by the applicant only on 30.8.1993 and therefore the applicant deserves payment of interest upto this date. Keeping this fact situation in focus, the direction in Para 7 with regard to payment of interest on GPF is modified to the extent that payment of interest @ 12% on GPF shall be paid upto 30.8.1993.

5. The application is partly allowed as per the direction given above. The respondents dated 20.11.1997 shall comply with the order/within a period of two months from the date of this order.

S. Bawali
(D.S. BAWALI)
MEMBER (A)

mrj.

24/6/98
order/Judgment despatched
to Applicant/Respondent(s)

ON 24/6/98 - *S. Bawali*