

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 693/97

Date of Decision: 11/6/98

smt. Jaibai Tukaram Jambekar

Applicant.

Shri J.M. Tanpure

Advocate for
Applicant.

Versus

Union of India & 2 Ors.

Respondent(s)

shri R.K. Shetty

Advocate for
Respondent(s)

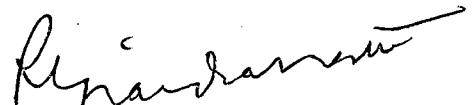
CORAM:

Hon'ble Shri. Justice R.G. Vaidyanatha, V.C.

Hon'ble Shri.

- (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


(R.G. VAIDYANATHA)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GULESTAN BLDG.NO.6, 4th FLR, PRESCOT RD, FORT,
MUMBAI - 400 001.

ORIGINAL APPLICATION NO:693/97.

DATED THIS 11TH DAY OF JUNE, 1998.

CORAM : Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.

Smt. Jaibai Tukaram Jambukar,
w/o. Tukaram Sahadu Jambukar,
Exe-employee of Central Ordnance,
Depot, Dehuroad, Dist. Pune.
R/o. At Sadawadi, Post-Sudumbre,
Tal-Naval, Dist-Pune.

... Applicant.

By Advocate Shri J.M. Tanpure.

V/s.

1. Union of India, through
The Secretary,
Ministry of Defence,
South Block,
New Delhi-110 001.
2. The Chief Controller of Defence
Accounts (Pensions),
Allahabad.
3. The Commandant,
Central Ordnance Depot,
Dehuroad, Dist-Pune.

... Respondents.

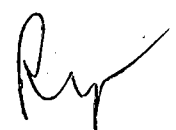
By Advocate Shri R.K. Shetty.

ORDER

§ Per Shri R.G.Vaidyanatha, V.C. §

This is an application filed under section-19 of Administrative Tribunals Act. Respondents have filed reply. I have heard the learned Counsel appearing on both sides.

2. The applicant is the wife of Tukaram Jambukar who was a pensioner having retired from Central Ordnance Depot, Dehuroad, Pune. It appears that husband of applicant had gone to Pandarpur during 1989 and found missing from some time in June, 1989. His whereabouts are not known, A complain was lodged with the Pandarpur Police about the missing of the husband of the applicant. There is an endorsement dated 15/8/1989 by the Police Inspector, Pandarpur Police stating that attempts are being made to search the mission person and he has not yet been traced,



and the applicant made a claim for the pensionary benefits in view of her husband's whereabouts being not known. Her claim was referred by the Branch Manager of the Bank of Maharashtra at Dehuroad where the applicant's husband was getting pension. The Bank Manager sent the application to the department. There is some correspondence in the matter. Admittedly, the department wanted some particulars, one of the letters on record is dated 22/5/95 in which the bank forwarded all the required documents to the department. Ultimately, the department sanctioned the Pension and the amounts were paid to the applicant in November, 1997. Subsequently, the applicant has filed this OA claiming interest at 24% per annum and also cost of Rs.10,000/-.

3. The respondents have filed a reply stating ^{that} ~~that~~ the circumstances under which the delay occurred in payment being made to the Applicant are not deliberate and their stand is that respondents are not liable to pay any interest or costs.

4. In this case, the only short point to be decided is whether the applicant is entitled to interest for delayed payment and if so at what rate. The Learned Counsel for Applicant claimed interest at 24% per annum. On the other hand the respondents counsel submitted that there was no deliberate delay in making payment and it was due to procedural delay and that the applicant is not entitled to any interest.

5. During the said period there was some correspondence from 1992 to 1995, ^{for} at least a letter was issued by Branch Manager to the department clearly shows that all the required documents were sent and in spite of this the payment was made only two years later. Though the applicant is entitled to interest even from earlier date, I feel in the present circumstances, the interest be granted from 22/5/95 when the bank forwarded all the documents to the department. The Pension was sanctioned sometime in 1996 and the actual amount was ~~paid~~ to the applicant only in November, 1997.

In these circumstances, I feel that the applicant is entitled to get interest from 22.05.1995 till 31.10.1997.

6. As far as rate of interest is concerned, I feel that in the facts and circumstances of the case, interest @ 12% would be just and reasonable. The Learned Counsel for the applicant presses for cost. Due to undue delay on the part of respondents in paying the pension, the applicant was forced to file this case. Since the applicant has been put to lot of loss, I feel taking into account the circumstances of the case, consolidated cost of Rs. 1,000/- (Rupees : One Thousand only) be awarded to the applicant.

7. In the result, the application is allowed as follows :-

- (i) The respondents are directed to pay interest at the rate of 12% per annum on the arrears of pension due from 22.05.1995 till 31.10.1997.
- (ii) Then about future pension from 22.05.1995 and onwards, interest is allowed at the rate of 12% per annum on each month's pension from the date the pension became due till 31.10.1997.
- (iii) In the circumstances of the case, the respondents are directed to pay consolidated ^{costs} ~~pass~~ of Rs. ^{12,000} ~~100/-~~ to the applicant.
- (iv) The respondents are given three months time from the date of receipt of this order to comply with these directions.

for claim (ii) in para

delete & claim (iii)

amended on per

abp

order passed to J.S.

in R.P. 56198 Rm 15/10/98

R. G. Vaidyanatha
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

V.C.

Date | Office Report |

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RP no. 56/98
 filed by Respondents
 put in 2 orders
 by circular with
 with m.p. no 655/98

2
 Nil

Place it on board
 on 15.10.97 for
 hearing could for
 Review Petitioner

Rp
 v.c
 17/10/98

15/10/98 - Addl. Board

Heard Shri J.N. Tanpure for Applicant.
 Shri R.K. Shetty for Respondents.

RP-56/98 is filed by respondents
 for reviewing the order dated 11/6/98
 by me in the OA.

learned counsel for applicant
 fairly submits that mistake has
 occurred in the operative portion of
 the order may be corrected.
 Heard both counsels.

The reliefs granted in para-7
 of the order.

In (i) of para-7, interest at

Date

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12 percent is granted on arrears of Pension. Again interest is granted ~~to~~ on arrears of pension in clause-(ii) of para-7 which appears to be a mistake. When interest is already granted in clause (i), granting interest in clause (ii) is not correct. Therefore, there is an apparent error in giving interest twice. Therefore, Clause (ii), operative portion in para-7 will have to be deleted.

It is also seen that there is an apparent error on record in mentioning the amount of cost in clause (iii) of para-7 of the order where the amount of cost is shown as Rs. 100/- . But in the body of the order in para-6, both in words and figures the consolidated cost is shown as Rs. 1000/- . By typographical mistake the amount is shown as Rs. 100/- in the

Date : Office Report :

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operative portion. It is being corrected by exercising powers of review.

In the result, following order is passed by exercising powers of review.

(i) Clause (ii) in para-7 of the order dtd. 11/6/98 stands deleted.

(ii) In clause (iii) in para-7 of the order dtd. 11/6/98, cost of Rs. 1,000/- is substituted in place of Rs. 100/-.

(iii) In the circumstances, there will be no orders as to cost.

(iv) The corrections are carried out in the original order as per the above orders.

Copies of the order on the RP-56/98 are furnished to both parties.

(R.G. Vaidyanatha)
V.C.

alp.

Order/Judgement despatched
to Applicant/Respondent (s)
on 11/11/98

10/11/98

2/26/10
52/10