

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO.293/98.
DATED THE 23rd DAY OF SEPT, 99.

CORAM:HON'BLE SHRI B.N.BAHADUR, MEMBER(A).

M.I.Shikilkar
T.No.R/568, Black Smoth,
Ammunition Factory,
Khadki, PUNE-411 003.
Residing at:545, Raviwar Peth,
Talegain Dabhade,Pune-410 506).

...Applicant.

By Advocate Shri S.P.Saxena

v/s.

1. The Union of India
Through The Secretary,
Ministry of Defence,
DHQ PO, NEW DELHI-110 011.

2. The Chairman,
Ordnance Factory Board,
10-A, Shahid Khidiram Bose Marg,
CALCUTTA - 700 001,

3. The General Manager,
Ammunition Factory,
Khadki, Pune-411 003.

... Respondents.

By Advocate Shri R.K.Shetty.

(ORDER)

This is an applicaztion made by Shri M.L.Shikilkar seeking the relief of payment of an amount of Rs.1,03,578/- alongwith 18% interest with effect from December,95. When the application came up for final arguments, the learned counsel for the applicant stated that the amount has since been paid to the applicant and this part of the prayer had become infructuous. However, he strenusouly contended that he still stands to demand

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the relief ⁱⁿ terms of interest on the said amount for the period from December, 95 to 22/4/98, when the payment was made. The learned counsel for Applicant thus rested his arguments on this short point. He drew attention to the orders of this Tribunal in O.A.139/92 annexed at Annexure-2.

2. The Counsel for Respondents while arguing the case took

Ans me through the said order in OA-139/92 and contended that was the order for the payment of dues of wages for the intervening period, which were ordered to be paid within three months. Counsel for Respondents argued that in as much as the case for interest was not considered, it can be deemed to be rejected. It was argued by the Counsel for Respondents that in an identical OA.No.38/99, such a prayer was dismissed in the Judgement delivered in this OA on 15/7/99.

3. Counsel for Respondent argued that payment of interest is the matter of discretion of the Tribunal and just as this was rejected in the other OA stated, it should be rejected here too. Arguing on merits, the Counsel for Respondents drew the attention of the Tribunal to the point made by Respondents in their Written Statement to the effect that the delay in the payment of arrears resulted from circumstances beyond the control of respondents. Learned counsel argued that the delay was mainly attributable to the long winded procedure which required sanction from different authorities and making of which involved considerable correspondence.

Ans

4. The short point to be decided ^{Ans} here is whether the applicant is entitled to interest on the payment of arrears, which have been made to him now, and if so for what period. It is clear from the decision in OA-139/92, that payment of arrears was ordered within a period of three months from the date of communication of that order which was dated 27/9/95. The applicant claims that when the payment should have been made by December, 95. The payment actually and admittedly came to be made on 22/4/98. Even if it is accepted that the payment of arrears in such a case by Government involves long winded procedure and formalities, it is prima facie seen that the delay is of the order of over 2 1/2 years. This has indeed caused loss to the applicant which is obvious and need not be explained.

5. It may be mentioned here that it is argued by the Respondents in their statement that the application stood time-barred with effect from 27/12/96 and is therefore barred by limitation under Section-21 of Administrative Tribunals Act read with decision in the case of H.R.Khinvisa reported in 1998(I)SLJ.P.226. Since the payment itself was made in 1998, it is difficult for this argument to be accepted.

6. Also, no reasons have been assigned in the rejection of the claim for interest in the order in OA-38/99 and it is therefore to be concluded that that order was passed in the facts and circumstances of that case.

Ans

O.A.293/98.

7. In this case there is no doubt a long delay. Even if we concede that the procedure described in detail was responsible for the delay as also factors like budget requirements, etc, the period of over 2 1/2 years is too long a delay. I take notice of the judgement of Full Bench reported in 1997(37)ATC-222 (FB) where it was held that allowing of interest was justifiable on delayed payment. In fact, it was decided that interest can be paid @ 12% and not @ 18%.

8. On consideration of all the pros and cons with reference to the facts and circumstances of the case, it can be held that it would meet the ends of justice if it is ordered that interest @ 12% be paid on the admitted sum of arrears namely Rs.1,03,578/- to the applicant. As regards the period for which such interest shall be paid, it would be justifiable if the period is kept to one year prior to the date of filing of the OA. The date of filing of the OA is 24/3/98 and the date of payment of arrears is 22/4/98. Thus, rounding off the dates, it is felt that the interest would be payable for a period of 13 months. In consequence, the following order is issued.

9. The OA is allowed partly in terms of the following order:-

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:5:

O.A.293/98.

Respondents shall pay to the applicant interest @ 12% on the amount of Rs.1,03,578/- for a period of 13 months. Since some correspondence seeking sanction, etc., would be required, a period of four months from the date of communication of this order is granted for making this payment. There will be no orders as to costs.

B. N. Bahadur

.. 23/4/99.
(B. N. BAHADUR)

MEMBER(A)

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