

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Dated this Tuesday the 12th day of February, 2002

Coram: Hon'ble Mr. B.N. Bahadur - Member (A)
Hon'ble Mr. S.L. Jain - Member (J)

O.A.467 OF 1998

Virendra Sahai Shrivastava,
S/o Sachidananda Sahai,
aged 58 years,
Deputy Director (Retd.),
Staff Training Regional Labour
Institute, Lake Town,
Calcutta.
R/o C/o Mrs. Sati Sahai Shrivastava,
M.T.P. Shipping Corporation of
India, 52-C, Adishankaracharya
Marg, P.O. Saki Naka, Powai,
Mumbai.
(By Advocate Shri S.P. Kulkarni)

- Applicant

VERSUS

1. Union of India
through Secretary,
Ministry of Labour,
Shramshakti Bhawan, Rati Marg,
New Delhi.
2. Head of the Department &
Deputy Director General,
Directorate General Factory
Advice Service and Labour
Institute, N.S. Mankikar Marg,
Sion, Mumbai.
3. The Regional Director,
Regional Labour Institute,
Lake Town, Pattipukur,
Calcutta 700 089.
4. The Chairman,
Ordnance Factory Board,
10, Auckland Road,
Calcutta 700 001.
5. The General Manager,
Ordnance Factory Khamaria,
Jabalpur (M.P.) 482 006.
(By Advocate Shri R.K. Shetty)

- Respondents

ORAL ORDER

The applicant in this case comes up to the Tribunal challenging the refusal of acceptance of voluntary retirement sought by him with effect from 9.12.1996. He has sought a large number of reliefs connected or otherwise in Para 8 of the OA.



2. We have heard learned counsel on both sides namely Shri S.P.Kulkarni for the applicant and Shri R.K.Shetty for the respondents. At the start Shri S.P.Kulkarni went over to Para 8 (a) to 8 (n) and stated that only two reliefs are now being argued by him namely the relief sought at Para 8 (c) and the relief relating to the claim of interest on delayed payments sought at Para 8 (g) and Para 8 (m). The case was therefore heard only with reference to the above.

3. The relevant facts in this case are that the applicant had sought voluntary retirement from 9.12.1996 by giving three months notice. This came to be rejected because at that time, as it transpired, the respondents did not have the full facts of the earlier service of the applicant, with the Ordnance Factory viz. the Ministry of Defence and, therefore, were of the opinion that he had not completed 20 years of service. While all this was being, sorted out, after refusal of his request for voluntary retirement, it transpired that the applicant meanwhile reached his age of normal superannuation by sheer passage of time, and retired on superannuation w.e.f. the afternoon of 31.10.1997. Thereafter the respondents have accepted the fact of his earlier service, and started processing his case for retiral benefits and have paid him the dues. These facts are gleaned from the papers on record, including rejoinder and sur-rejoinder.

4. The first argument made by learned counsel Shri S.P.Kulkarni was that the applicant became entitled to dues w.e.f. 9.12.1996 i.e. from the date when his voluntary

retirement should have been allowed. It is stated by him that the interest should therefore now be determined to accrue from this date.

5. We have carefully considered this argument and do not find it tenable because, for one, for ~~or~~ whatever reason it so happened, he continued to work. Now granting his request means we will have to hold that he stood retired from 9.12.1996. For one thing it will be completely unjustified a request to entertain, in the facts and circumstances of the case. For another even for a moment if this is agreed as an argument, no substantial monetary benefit would accrue since he would have to refund the salary drawn. In this regard learned counsel argued that there was some case law to the effect that he could be treated as retired and re-employed. Despite our asking, no case law was produced; such a request cannot be entertained. We find this request to be totally untenable.

6. Now we come to examine the aspect relating to delay if any in payment of amounts relating to post-retirement dues. We have gone through the relevant parts of the papers with the help of learned counsel on both sides. Shri Shetty also took us over to various papers filed by him. Shri Kulkarni also brought to our notice the relevant part of the record.

7. A statement has been produced before us by respondents' learned counsel, which gives the position of the dues of amounts pertaining to General Provident Fund, Commutation of Pension, CGEIS and Leave Salary etc. In regard to GPF, admittedly, the interest is calculated to the month prior to actual payment and



we understand, as admitted by counsel for applicant, that this has been done so. Hence, we do not consider the GPF amount. Some other due shown in the statement as adjusted against dues and hence do not find any need for consideration with regard to the aspect of payment of interest on them. After going through all relevant records which engage our attention, two amounts we find can be considered as paid after delay. The first is payment of amount relating to commutation of pension which stands at Rs.1,89,950/- and is stated by the respondents to have been paid on 8.12.1998. The second amount is in regard to CGEIS, the amount being Rs.25,944/- and stated to have been paid by respondents on 5.2.1999. (These are dates as contained in the statement produced by the respondents and which is now kept on record by us). They are not disputed as we considered them in open Court.

8. The issue to be decided is whether any interest needs to be paid in regard to these two amounts. To reiterate, the applicant retired on superannuation on 31.10.1997 and ideally should have received retirement dues by 1.2.1998. Now in regard to the delay we have carefully considered Para 1 of the written statement at page 84, and the affidavit filed by respondents dated 22.9.1999 as available on Pages 139 and 140 of the Paper Book. The delay in processing this case, after consideration of the reply of Respondents, would seem to amount to ten months in respect of the amount of Rs.1,89,950/- i.e. roughly from 1.2.1998 to 1.12.1998. In respect of CGEIS i.e. Rs.25,944/-, the delay would be from February/March, 1998 to February, 1999



i.e. about one year. The reason given in the affidavit at Page 84 to the effect that the delay came to happen because of the fact that the service records of the Ministry of Defence were not available cannot be accepted. The delay could be on the part of any Ministry but so long as the Union of India is responsible it cannot be interpreted in a manner as will harm the justifiable rights of the applicant or cause him financial hardships.

3. Therefore in the aforesaid periods and for aforesaid amounts there is full justification for the payment of interest. The OA is therefore allowed, to the limited extent, in terms of the following order.

ORDER

The respondents shall pay to the applicant simple interest at the rate of 12% per annum on an amount of Rs.1,89,950/- (Rupees One lakh, eighty nine thousand and nine hundred and fifty only) for ten months. They shall also pay simple interest at 12% on an amount of Rs.25,944/- (Rupees Twenty Five thousand nine hundred and forty four only) for a period of one year. These amounts shall be paid to the applicant within a period of three months from the date of receipt of a copy of this order. All other prayers made in the OA are hereby rejected. There will be no order as to costs.

S.L.Jain
(S.L.Jain)
Member (J)

B.N.Bahadur
(B.N.Bahadur)
Member (A)

mb

dt: 12.2.2002
order/Judgement despatched
to Applicant/Respondent(s)
on 12.2.2002

RF
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