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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.917/90.

Date of Judgment 7.11.91

N.D.Sharma

.. Applicant

Vs.

Chief Commissioner of
Incometax,
Andhra Pradesh,
Hyderabad.

.. Respondent

Counsel for the Applicant : Applicant in person.

Counsel for the Respondent : Shri N.Bhaskara Rao, Addl. CGSC

CORAM:

Hon'ble Shri R.Balasubramanian : Member(A)

Hon'ble Shri T.Chandra Sekhar Reddy : Member(J)

I Judgment as per Hon'ble Shri R.Balasubramanian,
Member(A) I

This application has been filed by Shri N.D.Sharma under section 19 of the Administrative Tribunals Act, 1985 against the Chief Commissioner of Incometax, Andhra Pradesh, Hyderabad praying for a direction to the respondents to pay interest @ 18% on

- (i) Excess deduction of H.B.A.
- (ii) Suspension period salary.
- (iii) Arrears of salary, D.A. and H.R.A.
- (iv) Leave commutation amount.
- (v) Delayed payment of G.P.F.
- (vi) Interest on gratuity to be paid to him.

2. The applicant sought for voluntary retirement which was given effect to on 30.4.87. At the time of his retirement disciplinary proceedings were pending and finally they were dropped by an order dated 26.12.90 in O.A.No.488/89. The applicant has been paid all the amounts he has referred and what he seeks now is only interest on account of delayed payment.

3. The respondent has filed a counter affidavit and opposes the application.

(i) Excess deduction of H.B.A. - It is contended that annual review of balances is done and communicated to the loanee. If he does not point out any discrepancy no further action is taken and it is contended that no interest is payable on this score.

(ii) Suspension period salary - In O.A.No.405/86 the applicant asked for full pay and allowances for the entire period of suspension with interest. In the order dated 12.8.87 in the O.A., the Tribunal allowed full salary and allowances. There is no mention of the interest. It is, therefore, contended that no interest is payable.

(iii) Arrears of salary, D.A. and H.R.A. consequent to implementation of IVth Pay Commission recommendations - During the period 1.1.86 to 31.8.86 the applicant was under suspension. Consequent to the decision of the Tribunal in O.A. No.405/86 the arrears were paid and since no interest was ordered it has not been paid.

(iv) Leave commutation amount - In O.A.No.151/88 the applicant wanted encashment of commuted leave together with interest thereon. In the order dated 18.11.88 this Tribunal ordered payment of encashment of commuted leave but there was no order regarding payment of interest. Hence it is contended that interest is not payable on this score also.

(v) Delayed payment of G.P.F. - The applicant applied for final withdrawal of G.P.F. ^{on 12-8-87} and the amount was paid to him on 10.9.87 itself. Hence it is contended that there was no delay and that interest is not payable on this score also.

(vi) Interest on gratuity paid - It is contended by the respondent that interest is payable only when there is delay due to Administrative lapses. In this case the amount was paid to him in June, 1991. Hence it is contended that there is no delay on the part of the Administration and hence no interest is payable.

4. We have examined the case and heard Shri N.D.Sharma, applicant in person and the learned counsel for the respondent Shri N.Bhaskara Rao and we have come to the following conclusions:-

(i) Excess deduction of H.B.A. - If the respondent had ~~did not~~ conceded that there had been excess deduction and had refunded the amount there is a liability on the part of the respondent to pay interest. ^{If there is any} ~~If there is any~~ balance of interest payable by the Govt. servant to the Department, it is adjusted in the D.C.R.G. amount. By the same reckoning, if any excess deduction of H.B.A. is due to be refunded by the Department to the Govt. servant this should also be done as part of the gratuity amount. Therefore, whatever order is passed regarding payment of interest on the gratuity amount will be applicable to this item also.

(ii) Suspension period salary.
(iii) Arrears of salary, D.A. and H.R.A.
(iv) Leave commutation amount. I - Two orders passed by this Tribunal in O.A.No.151/88 and O.A.No.405/86 cover these three items. It is seen that though interest was asked for the Tribunal did not grant the interest while passing the orders. This prayer which was specifically made and not granted cannot be pressed ^{for} now and we, therefore, do not allow any interest on these three items.

(v) Delayed payment of G.P.F. - The applicant retired from service on 30.4.87. Under the G.P.F. rules he has to make an application for final withdrawal of the G.P.F. It is averred that he made such an application for final withdrawal on 12.8.87 and it is stated that the amount was paid to him on 10.9.87 itself. We do not find any delay on this score and we, therefore, do not ~~approve~~ any ^{order} special interest ~~since there is no~~ ^{for the small} delay in the payment of G.P.F.

(vi) Interest on gratuity paid - According to Rule 68 of C.C.S.(Pension) Rules, 1972 (Pension Rules for short) interest is permissible if gratuity is paid after three months

To

1. The Chief Commissioner of Incometax,
Andhra Pradesh, Hyderabad.
2. One copy to Mr. N.D.Sharma, Party-in-person,
6-3-569/1/1 Somajiguda, Hyderabad.
3. One copy to Mr.N.Bhaskar Rao, Addl. CGSC.CAT.Hyd.
- 4 . One spare copy.

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from the day it became due and if it is due to Administrative lapses. According to Govt. of India's decision under the said rule it is indicated that gratuity becomes due immediately on retirement (In this case on 1.5.87) and the amount was paid to him only on 7.6.91. The delay was due to the disciplinary proceedings pending against the applicant and finally by an order dated 26.12.90 in O.A. No. 488/89 the entire proceedings were dropped. Since the applicant has come out clean in the proceedings initiated by the respondents it must be held here that it amounts to delay in payment caused by the respondents and the interest due under the rules should not be denied to the applicant. Hence we approve payment of interest on the amount of gratuity. As stated earlier, since we have decided that refund of excess deduction of H.B.A. is also to be treated as part of gratuity, we direct the respondents to pay ^{and also on} interest on the gratuity amount, ~~and~~ the refund of excess deduction of H.B.A. for the period 1.5.87 to 7.6.91 at the rates indicated in Govt. of India's Decision No.2 under the Rule 68 of the Pension Rules. The interest shall be reckoned from 1.8.87 to 7.6.91 @ 7% p.a. for the first one year and @ 10% p.a. for the period beyond one year.

5. The amount due as a result of the above order should be calculated and paid to the applicant within a period of ~~two~~ ^{three} months of receipt of this order. The application is thus allowed partly with no order as to costs.

R.Balasubramanian
(R.Balasubramanian)

Member(A).

T - C - 8 - 2 - 1 - n
(T.Chandra Sekhar Reddy)
Member(J).

Dated

7th November 91

Deputy Registrar (J)

TYPED BY

COMPARED BY

CHECKED BY *SP*

APPROVED BY

11/11/91

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.

:V.C

AND

THE HON'BLE MR.

M(J)

AND

THE HON'BLE MR. R. BALASURRAMANTAN *M(A)*

AND

THE HON'BLE MR. *T. chandru sekharreddy* M(J)

DATED: 7-11-1991

ORDER/ JUDGMENT:

M.A./R.A./C.A. No.

O.A. No. 917/90.

T.A. No.

(W.P. No.)

Admitted and Interim directions
Issued.

Allowd. in - part

Disposed of with directions

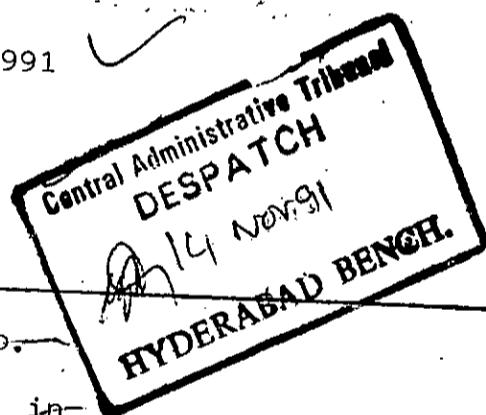
Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

M.A. Ordered/Rejected

1.0 order as to costs.



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AO
11/11/91