

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

O.A.No.216/91

Date of Order:14.10.93

K.Francis

.. Applicant

Vs.

1.Govt.of India rep. by its Secretary,
Ministry of Urban Development,
New Delhi.

2.Director General of Works, Central
P.W.D. Nirman Bhavan, New Delhi.

.. Respondents

Counsel for the Applicant : Mr.B.M.Patro for
P. B. Vejayakumar.

Counsel for the Respondents : Mr.N.R.Devaraj, Sa. S.C.

CORAM:

THE HON'BLE MR.T.CHANDRASEKHARA REDDY : MEMBER (JUDL.)

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O.A.No.216/91

Date of order: 14-10-1993

O R D E R

[(As per Hon'ble Shri T. Chandrasekhara Reddy, Member(J))]

This is an application filed under Section 19 of the Central Administrative Tribunals Act, to direct the respondents to pay interest at the rate of 24% p.a. on Rs.1,49471/- for delayed payment of DCRG and commuted pension with effect from 30.09.1987 to 13.02.1991 and pass such other order or orders as may deem fit and proper in the circumstances of the case.

2. The facts so far necessary to adjudicate this OA may be stated as follows:

3. The applicant was working as Executive Engineer (Civil) in CPWD office of the Valuation Officer, Income Tax Department, Nagpur. While so, he was issued a charge memo under Rule 14 of the CCS(CCA)Rules, 1965 for committing certain irregularities in the execution of work relating to construction of RCC Bridge over River Dikrong in Arunachal Pradesh. A Regular Enquiry Officer was appointed and a regular departmental enquiry was conducted ~~by the Enquiry Officer~~. While so, the applicant retired from Government service on 30.09.1987 on obtaining the age of superannuation.

4. After the applicant's retirement also the enquiry continued. But provisional pension was paid to the applicant. The Enquiry Officer submitted his report to the Disciplinary authority giving the findings that Article I of the charge ~~was~~ partly proved, Article II of the charge was fully proved and Article III was also partly proved but Article IV of the charge was not proved. The Disciplinary authority on 10.9.90 passed

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an order. It will be pertinent to extract para 4 of the order of the Disciplinary authority, which reads as follows:

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xx xx xx xx

xx xx xx xx
xx xx xx xx

4. The President after taking into account the facts of the case, the report of the Inquiry Officer and all relevant circumstances of the cases has come to the conclusion that the charges as held as proved by the Enquiry Officer are not serious enough as to warrant withholding of his pension. The President, is, therefore pleased to ~~xx~~ order that the charges against Sri K.RFrancis be dropped."

5. After the Disciplinary authority passed the order dated 10.9.90, the applicant was paid DCRG and commuted value of pension on 13.2.1991. It is the case of the applicant that, as he had been exonerated of the charges framed by the Disciplinary authority, he is entitled for payment of interest for the delay caused by the respondents in paying the DCRG and commuted value of pension. Hence, the present OA is filed by the applicant for the relief as already indicated above.

6. Counter is filed by the respondents opposing this OA.

7. We have heard Mr Patro counsel for the applicant and Mr NR Devraj, Standing Counsel for the respondents. It is the contention of the learned counsel for the respondents, ~~that~~ as the applicant is not exonerated fully of all the charges framed against the applicant, that the applicant is not entitled to claim interest for the delayed payment of DCRG ~~and~~ commuted value of pension.

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It is also the contention of the ~~appellant~~ respondents that as the applicant himself had been responsible for the delay for the completion of the disciplinary enquiry, that the applicant is not entitled to claim interest for the delayed payments of DCRG and commuted value of pension.

8. Admittedly, the Enquiry officer has held that Article 2 of the charge had been proved and Article I and III were partly proved and Article 4 of the charge was not at all proved. It is up to the disciplinary authority to accept the findings of the Enquiry Officer. As could be seen from the order dated 10/9/90, the Disciplinary authority had not accepted the findings of the Enquiry Officer nor ~~disagreed~~ ^{disagreed} with the findings of the Enquiry Officer. It was the bounden duty of the Disciplinary authority either to agree with the findings of the Enquiry Officer, or to disagree with the findings of the Enquiry Officer and if disagreed ~~not~~ pass separate orders ~~regarding the findings of the Enquiry Officer.~~ But, peculiarly in this case, the Disciplinary authority has said that the charges as held as proved by the Enquiry Officer are not serious enough to warrant withholding of pension of the applicant. After saying so, the Disciplinary authority directed that the charges as against the applicant be dropped. So, as the Disciplinary authority had said that the charges against the applicant ~~to be dropped~~, the only inference that could be drawn is that the Disciplinary authority has exonerated the applicant from all the charges. So, as the Disciplinary authority had exonerated the applicant of all the charges certainly, for delayed payment of pensionary benefits, the respondents are liable to pay interest.

9. Admittedly, the applicant had been paid a sum of Rs.66,000/- towards Gratuity on 13.2.1991. The applicant had retired on 30.9.1987. So, the gratuity became due to the applicant as on 1.10.1987. ~~As already pointed out, the gratuity has been paid to the applicant only on 13.2.1991.~~ As could be seen there is roughly about 4 years delay in payment of gratuity to the applicant. So, in view of the delayed payment of gratuity to the applicant, the applicant is entitled for ~~receipt of interest beyond one year, the rate of interest that could be awarded is 10% p.a.~~ ^{on the amount that is payable} Hence, ~~we direct the respondents to pay interest at the rate of 10%~~ on the said amount of Rs.66,000/- from 1.10.1987 to 13.2.1991.

10. So far, the commuted value of pension is concerned, the applicant had been paid commuted value of pension on 13.2.1991. It is not in dispute upto 13.2.1991 the applicant had been paid provisional pension. In ~~regular~~ between the ~~full~~ pension that was paid to the applicant after the order dated 10.9.90 was passed and the provisional pension which the applicant was getting during the pendency of the disciplinary proceeding, there seems to be no ~~the amount paid~~ difference. ~~Both~~ appears to be one and the same. So, as the applicant, as already pointed out, had been paid ~~ex~~ pension due to him upto 30.2.91, the applicant is not entitled for any interest for delayed payment ~~ex~~ of commuted value pension. Hence, interest on delayed payment of commuted value of pension is hereby rejected..

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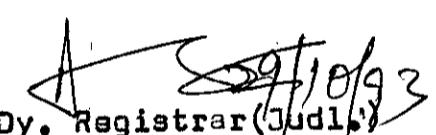
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11. Even though Mr NR Devraj, Standing counsel for the respondents contended that the applicant himself had ~~contributed~~ ^{contributed} for the delay in completion of disciplinary enquiry, we do not have any material before us to give a finding in favour of the respondents. For the ^{accordingly in} above said reasons, the OA is liable to be allowed and ^{and} hence, the respondents are directed to pay interest to the applicant ~~for~~ on the delayed payment of Rs.66,000/- towards gratuity from 1.10.1987 to 13.2.1991 at the rate of 10% per annum. Rest of the OA is rejected. OA is ~~allowed partly with the above said directions.~~ Parties shall bear their own costs.

T - Chandrasekhara Reddy
(T.CHANDRASEKHARA REDDY)
Member (Judl.)

Dated: 14-10-1993

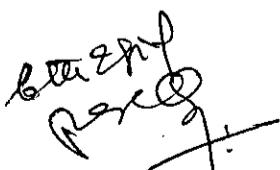

Dy. Registrar (Judl.)

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Copy to:-

1. Secretary, Ministry of Urban Development, Govt. of India, New Delhi.
2. Director General of Works, Central P.W.D. Nirman Bhavan, New Delhi.
3. One copy to Sri. B.M.Patro, advocate, Advocates Association High Court Building, Hyderabad.
4. One copy to Sri. N.R.Devraj, Sr. CGSC, CAT, Hyd.
5. One copy to Library, CAT, Hyd.
6. One spare copy.

Rsm/-


B.M.Patro