

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

O.A.No.959/91

Date of Order: 28.7.92

BETWEEN;

Smt T.Saraswathi Devi

.. Applicant

AND

1. Govt. of India Rep by
Secretary, Deptt. of Personnel, P.G.
and Pensions, Min. of Home Affairs,
Secretariat,
NEW DELHI

2. Govt. of AP rep by its
Secretary,
General Administration (SC & X)
Deptt. of
Secretariat,
HYDERABAD

.. Respondents

Counsel for the Applicant : Sri A. Ramasubbaiah

Counsel for the Respondents: Sri M. Jagan Mohan Reddy CGSC.

! Sri D. Panduranga Reddy Spl.
Counsel for A.P. State.

CORAM:

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

(Order of the Single Member Bench Delivered by

Hon'ble Shri T. Chandrasekhara Reddy, Member (Judicial))

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EX-10

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This is an application filed under Section 19 of the Administrative Tribunals Act by the applicant herein to pay interest at the rate of 12% per annum for the delayed ~~xxx~~ payment to the applicant in respect of all pensionary benefits namely death-cum-retirement gratuity, life time arrears and arrears of ^{family} pension.

The facts so far necessary to adjudicate this OA in brief may be stated as follows:

2. The husband of the applicant was one Sri T. Lakshma Reddy. He was an IAS Officer. He was compulsorily retired on 3.11.1976. But for the said retirement, the said Sri T. Lakshma Reddy was entitled to continue in service till the end of the year 1981. The said Sri Lakshma Reddy challenged the order compulsorily retiring him by filing Writ Petition No. 4527/77 on the file of the High Court of AP.

3. The said Sri Lakshma Reddy married twice during his life time. The applicant before us is the Junior wife of the said Lakshma Reddy. The senior wife of the said Lakshma Reddy had filed ^a ~~the~~ maintenance suit in O.S. No. 51/71 on the file City Civil Court, Hyderabad, before Additional Chief Judge as against her husband Lakshma Reddy. The senior wife succeeded in the said OS 51/71 and obtained a maintenance decree in her favour. The said ~~said~~ Lakshma Reddy took the matter in appeal in CCA No. 145/77 on the file of the High Court of Andhra Pradesh as against the said decree and judgement passed against him in the said maintenance suit OS 51/71.

4. Pending the said appeal ^{CCA 145/77} and said writ petition ^{4527/77} the said Sri Lakshma Reddy died on 7.3.1978. Due to the death of the said Lakshma Reddy, the above said Writ Petition No. 4527/77 was dismissed.

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5. The said Sri Lakshma Reddy in a sound and disposing state of mind on 6.3.1978 had executed a will bequeathing all the pensionary benefits in favour of the applicant herein. We are not concerned in this OA about the disposition of the other properties made by Sri Lakshma Reddy. On 21.8.81, the senior widow of the said Sri Lakshma Reddy and the applicant herein (junior widow) and the other concerned parties entered into a compromise in the said CCA 145/77 on the file of the High Court of Andhra Pradesh and a compromise decree was passed by the High Court as per the terms of the agreement. As per the said compromise decree also, the applicant herein became entitled to all the pensionary benefits.

5. On 21.9.1981, the applicant put in a representation to the respondents to pay all the pensionary benefits due to her. The applicant also seems to have made a representation in vain to the grievance cell for payment of pensionary benefits to her. On 29.4.1986, the respondents asked the applicant to comply with certain objections for payment of pensionary benefits to the applicant. The applicant complied with the said objections on 16.5.1986. On 30.5.1989, a GO was issued sanctioning all pensionary benefits to the applicant for which she was entitled. As per the said GO, on 15.6.1989, the applicant was permitted to receive family pension directly from the pension payment office, and accordingly she withdrew the family pension on 15.6.89. The DCRG and life time arrears payable to the said Sri Lakshma Reddy were deposited on 16.1.90 and 21.3.90 respectively to the credit of the said OS 51/71 filed on the file of City Civil Court, Hyderabad, before the Additional Chief Judge. On 16.6.90, the applicant withdrew the said DCRG and the life time arrears that were payable to the said Sri Lakshma Reddy.

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6. The said payments did not include interest. The applicant got issued a notice for payment of interest on the above said 3 items for the delayed payments. There was no reply to the said notice that was issued on behalf of the applicant. Hence, the present OA is filed for the reliefs as already indicated above. The applicant also seems to have filed OA 700/87 on the file of this Tribunal and obtained a direction in her favour and as against the respondents, to comply with the notice issued to the respondents on behalf of the applicant for pension payment.

7. We have heard today Mr A. Ramasubbaiah, for the applicant and Mr M. Jagan Mohan Reddy for the respondents.

8. Even though the counter of the respondents had not been filed, as both sides argued in detail and in the absence of the counter, this matter can be decided, we proceed to dispose of this OA after taking into consideration all the material before us.

9. It is the contention of the learned counsel for the applicant that the applicant is entitled for interest for the delayed payments of DCRG, life time arrears w.e.f. 21.9.1981 which is the date of her first representation to the respondents to pay her pensionary benefits and till the said payments were actually deposited on 16.1.1990 and 23.3.90 respectively in the Court of Additional Chief Judge Civil Court as already indicated above. No doubt there is a delay on the part of the respondents in payment of the two said items (DCRG and life time arrears) to the applicant. But, however, when the said representation dated 21.9.1981 was made to the respondents for payment of pensionary benefits to the applicant, there was lapse on the part of the applicant to submit pension papers along with the said

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representation dated 21.8.1981. The applicant had sent her representations without submitting pension papers. This seems to have resulted in the delay in payment of those two items. So, for non-submission of pension papers, the applicant certainly is to be made responsible. But the learned counsel for the applicant vehemently contended that there is a duty cast on the respondents to inform the applicant at an early date, soon after the said representation was received to submit her pension papers and that, it is not done and so negligence on the part of the respondents has to be inferred for delayed payments. This is a case where the applicant and the respondents are equally negligent and hence, the applicant is liable to be paid interest only from 1.6.1986 onwards.

10. In fixing the date as 1.6.1986, as the due date for payment of interest, we have taken into consideration the fact that the applicant had complied with the objections only on 16.5.1986 and the respondents would have required in the usual course fifteen days time from 16.5.1986 to pass appropriate orders and hence, the due date to pay interest as 1.6.1986 is justifiable. As already pointed out, the said two items DCRG and life time arrears were deposited in Additional City Civil Court, Hyderabad on 16.1.1990 and 21.3.1990. We feel that the interests of justice would be served if 12% interest is awarded on the two items namely DCRG and life time arrears from 1.6.1986 upto 16.1.90 and 21.3.90 respectively. Accordingly, we direct the respondents to pay interest from 1.6.1986 onwards on DCRG amount at the rate of 12% interest per annum upto 16.1.90 and also on the ^{up} life time arrears interest at 12% per from 1.6.1986 to 21.3.1990.

11. The arrears of ^{family} pension were paid to the applicant on ^{family} 15.6.89 as already indicated above. But pension arrears also became due to the applicant by 1.6.1986. But ^{family} pension

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arrears were not paid by 1.6.1986 to the applicant. For the reasons afore said, it will be just and equitable to award interest on the entire family pension arrears that were payable upto 15.6.89, ~~an interest~~ at the rate of 12% per annum from 1.6.1986 to 15.6.1989. Accordingly, we direct the respondents to pay interest from 1.6.1986 to 15.6.1989 at the rate of 12% per annum on all the family pension arrears that have accrued upto 15.6.1989.

11. Sri Ramasubbaiah, Counsel for the applicant vehemently contended that the family pension arrears were also paid only on 15.6.1989 ~~and~~ ^{and} for the period from 1.6.1986 to 15.6.1989 that the applicant is liable to be paid interest at reasonable rates for the delayed payment of family pension arrears from 1.6.1986 onwards. ~~But~~, for the above said three items indicated above, we have awarded interest at the rate of 12% per annum. So, as reasonable rate of interest is awarded on all the said 3 items, denial of interest for the delayed payment of monthly family pension from 1.6.1986 to 15.6.1989 would not cause any injustice to the applicant.

12. With the above said directions, the CA is allowed leaving the parties to bear their own costs.

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

Dated: 28th July, 1992

By: Registrar(Judl.)

(Dictated in the open court)

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Copy to:-

1. Secretary, Deptt. of Personnel, P.G. and Pensions, Ministry of Home Affairs, Govt. of India, Secretariat, New Delhi.
2. Secretary, General Administration (SGX) Deptt. Govt. of A.P. Secretariat, Hyd.
3. One copy to Sri. A. Ramasubbaiah, advocate, 1-1-398/1, Gandhi -nagar, Hyd.
4. One copy to Sri. M. Jagan Mohan, Reddy, Addl. CGSC, CAT, Hyd.
5. One spare copy.
6. One copy to Sri. D. Panduranga Reddy, Spl. Coun. to AP State.

Rsm/-

Copy to:-
Sri. D. Panduranga Reddy
Spl. Coun. to AP State

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FILE
COMPARED BY

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APPROVED BY

THE HON'BLE MR.

V.C.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

AND

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

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

Dated: 28-7-1992.

ORDER / JUDGMENT

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

in

O.A.No.

959/91

T.A.No.

(W.P.No.)

Admitted and interim directions
issued