

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

O.A. 834/96

Date of decision: 09 JUN 97

Between:

Zohra Begum ... Applicant

And

- 1. Govt. of India rep. by
Secretary,
M/o Personnel, Public Grievances
and Pensions,
New Delhi.
- 2. Director General,
Archaeological Survey of India,
Govt. of India, Janpath,
New Delhi.
- 3. Superintending Archaeologist,
III Floor, II Block,
Kendriya Sadan, Sultan Bazaar,
Hyderabad.
- 4. Asstt. Controller of Accounts,
Pay & Accounts Office,
Archaeological Survey of India,
Hyderabad. .. Respondents
- Shri I. Dakshina Murthy .. Counsel for applicant
- Shri V.Rajeswara Rao, ACGSC .. Counsel for respondents

CORAM

HON'BLE SHRI H. RAJENDRA PRASAD, MEMBER (ADMINISTRATIVE) *[Signature]*

JUDGEMENT

The husband of the applicant, M.A. Aziz, retired on superannuation on 7.11.68. At the time of his retirement, a criminal case under Prevention of Corruption Act was pending against him. He was subsequently convicted by the trial court and the verdict was confirmed by the High Court though the sentence was reduced to simple imprisonment till the rising of the court. This was in November, 1981. No pension was released in favour of Aziz on the ground of pendency of the criminal case. He passed away in 1984.

[Signature]

While this was the position, the applicant filed OA 1370/93 before this Tribunal. The OA was disposed of on 2.12.1993 with a direction that the payment of pension - the claim was at that point of time pending with Law Ministry - should be decided expeditiously in accordance with the relevant rules. The Tribunal further observed as under:-

"If for any reasons the matter cannot be decided by 31.1.94, the applicant herein had to be paid the minimum of family pension from January 1994 ... On the final decision being taken in regard to the matter, the applicant had to be paid the arrears of family pension and the gratuity, if payable, with interest at 12% per annum from the respective due dates."

The applicant was also given the liberty to move the Tribunal in case she was aggrieved by the decision of the authorities. The applicant is now aggrieved by the non-payment of interest from what she claims to be due dates for the payment of gratuity (7.11.68) and family pension (28.12.84). Hence this O.A.

2. The basic facts are not in dispute. The ground taken by the respondents for rejecting the claim for payment of interest is that the husband of the applicant was not fully exonerated of the charge, and, therefore, Rule 68 GID 1 and 3 (1)(c) of CCS (Pension) Rules, 1972 is fully attracted and applicable to this case. The said rule is as under:-

"(c) In cases where the Government servant is not fully exonerated on the conclusion of disciplinary/judicial proceedings and where the competent authority decides to allow payment of gratuity, in such cases, the payment of gratuity will be deemed to have fallen due on the date of issue of orders by the competent authority for payment of gratuity vide OM No. 7(1) PU/79, dated 11.7.1979 (Para 2 of Decision (1) above). If the payment of gratuity is delayed in such cases interest will be payable for the period of delay beyond three months from the date of issue of the above-mentioned orders by the competent authority."

[Handwritten signature]
edh

The respondents state that a decision to sanction pension and gratuity in this case was taken purely on compassionate grounds and that there is no legal right vested in the applicant for claiming of any interest thereon.

3. The facts have been examined. In the first instance, this Court had clearly stated in its order dated 2.12.93 that the applicant had to be paid arrears of family pension and gratuity, if payable, with interest at 12% per annum from the respective due dates.

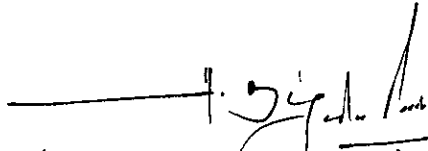
4. The applicant contends that Rule 68 GID 1 and 3(1)(c) of CCS (Pension) Rules is not applicable to the present case. This argument is not correct and not found acceptable. The said rule squarely covers the facts of the present case. The Tribunal had clearly directed that the case be decided in accordance with relevant rules. The rule cited by the authorities is clearly the relevant rule in the instant case. It lays down that in case where the competent authority decides to allow payment of gratuity, the date of the issue of orders by the competent authority will be ^{the} due date. It adds further that if the payment of gratuity is delayed beyond 3 months from the date of issue of orders by the competent authority, interest thereon shall become due. In the present instance the order to release pension and gratuity was issued on 25.1.94, and the actual amounts were paid within the next three days, i.e. on 28.1.94. There was thus no delay on the part of the authorities in the matter of payments.

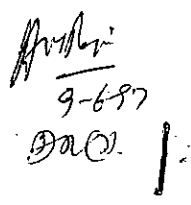
5. In the light of the foregoing discussion it is held that there has been no impermissible delay on the part of the authorities in taking an appropriate decision in the matter and in releasing the payment of gratuity and pension in respect of late M.A.Aziz. It is noted that the decision

[Signature]
4/6

regarding sanction of pension and gratuity is itself on compassionate considerations. Under the circumstances, no interest can be claimed as a matter of right nor indeed had this Tribunal issued such a direction in its earlier order. The claim is, therefore, not based on sound reasons, nor covered by any rule.

6. The O.A. is, therefore, disallowed. No costs.


(H. Rajendra Prasad)
Member (Administrative)
09 JUN 97


9-6-97
D.A.O.

vm

XX
O.A.834/96.

To

1. The Secretary,
M/o Personnel; Public Grievances and Pensions,
Govt.of India, New Delhi.
2. The Director General,
Archaeological Survey of India,
Govt.of India, Janpath, New Delhi.
3. The Superintending Archaeologist,
III Floor, II Block, Kendriya Sadan,
Sultan Bazar, Hyderabad.
4. The Assistant Controller of Accounts,
Pay and Accounts Office,
Archaeological Survey of India,
Hyderabad.
5. One copy to Mr.I.Dakshina Murthy, Advocate, CAT.Hyd.
6. One copy to MF.V.Rajeswar Rao, Addl.CGSC.CAT.Hyd.
7. One copy to Mon'ble Mr. H.Rajendraprasad, Member(A) CAT.Hyd.
8. One copy spare.

pvm.

9/6/97

T COURT

I.

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE
VICE-CHAIRMAN

and

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

Dated: 9/6 -1997

~~ORDER~~/JUDGMENT

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

in

C.A.No. 834/96.

T.A.No.

(w.p.)

Admitted and Interim directions
Issued.

Allowed

Disposed of with directions

Dismissed.

Dismissed, as withdrawn

Dismissed for default.

Ordered/Rejected.

No order as to costs.

pvm

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
दिल्ली / DELHI
17 JUN 1997
हैदराबाद बेंच
HYDERABAD BENCH