

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
 AT HYDERABAD

O.A.No.816/99.

Date of Decision : 01-12-99.

S.M.Vali

... Applicant.

vs

1. The Union of India
 rep. by the Chairman,
 Telecom Commissions,
 Dept. of Telecommunications,
 New Delhi-110 001.

2. The Chief General Manager,
 A.P.Telemcom Circle,
 Abids, Hyderabad-1.

3. The Telecom District Manager,
 Mahaboobnagar.

.. Respondents.

Counsel for the applicant : Mr.J.V.Lakshmana Rao

Counsel for the respondents : Mr.V.Rajeswara Rao,
 Addl.CGSC.

CORAM:-

THE HON'BLE SHRI B.A.JAI PARAMESHWAR : MEMBER (JUDL.)

ORDER

Heard Mr.R.Yogender Singh for Mr.J.V.Lakshmana Rao, learned counsel for the applicant and Mr.V.Rajeswara Rao, learned counsel for the respondents.

2. The applicant while working as Telecom District Manager retired from service w.e.f., 30-04-95 on attaining the age of superannuation. As, at the time of his retirement, certain disciplinary proceedings were pending the gratuity was not released to him. The said disciplinary proceedings was concluded by order No.8-8/90-Vig.II dated 24-02-97 (Page-9 to the OA). The punishment imposed on the applicant reads as follows:-

"Taking into account the findings of the Inquiring Authority, representation dated 11/93 of Shri S.M.Vali, records of the case, advice of UPSC furnished in their letter No.F.3/202/95-S.I dated 6th December, 1996 and on an objective assessment of the facts and circumstances of the case in its entirety, the President has ordered to impose a penalty of withholding of 10% (ten percent) of the monthly pension otherwise admissible to Shri S.M.Vali for a period of one year."

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3. The applicant has not submitted any appeal against the punishment order submits the learned counsel for the applicant.

4. Even after conclusion of the disciplinary proceedings the gratuity payable to him was not released. In fact by the Annexure-9 and 11 the respondent authorities themselves sought clarification as to why the gratuity was not released to the applicant when the disciplinary proceedings were concluded as early as February, 1997.

5. The applicant has filed this OA to call for the records and to direct the Respondent No.3 to make payment of DCRG with 18% interest from the date fallen due as per Rule 68 of CCS (Pension) Rules, 1972 within a period of 30 days.

6. The learned counsel for the respondents argued the matter on merits. Though the reply has not been filed he has produced a draft reply and submitted that the DCRG amount amounting to Rs.97,203/- (after deduction of 10% of Rs.4371/-) has been paid vide cheque No.F883634 dated 17-7-99 sent through registered post R.L.No.2966 dated 17-7-99. Further it is stated that the payment of interest on DCRG does not arise as it was delayed due to vigilance case was contemplated against him.

7. Thus the respondents justified the delayed payment of gratuity during July, 1999.

8. The learned counsel for the applicant submitted that the gratuity was paid after the applicant approached this Tribunal and that he is eligible for interest as contemplated under the rules. He submitted that interest has to be paid atleast from 25-2-97. The learned counsel for the applicant in support of his contention that the applicant is eligible for interest on the delayed payment of gratuity relied on the ^{instructions issued} ~~observation made~~ under Rule 68 at page 147. The para-1 and 2 reads as follows:-

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"(1) Admissibility of interest on gratuity allowed after conclusion of judicial/departmental proceedings:- Under the rules, gratuity becomes due immediately on retirement. In case of a Government servant dying in service, a detailed time table for finalising pension and D.C.R.G. has been laid down, vide Rule 77 onwards.

2. Where disciplinary or judicial proceedings against a Government servant are pending on the date of his retirement, no gratuity is paid until the conclusion of the proceedings and the issue of the final orders thereon. The gratuity if allowed to be drawn by the competent authority on the conclusion of the proceedings will be deemed to have fallen due on the date of issue of orders by the competent authority."

9. From the above instructions the applicant is eligible for claiming interest from 25-2-97 to 16-7-99. The applicant submits that he has received the gratuity as per the particulars mentioned above.

10. The learned counsel for the applicant prays for interest at 18% p.a. for the delayed payment of gratuity. I am not inclined to grant interest at that rate. The respondent authorities have not explained any justifiable reasons for non-payment of gratuity after disciplinary proceedings was concluded on 24-2-97.

11. Hence the following directions are given:-

(a) The respondents shall pay interest at 6% p.a. on the gratuity already paid to the applicant from 25-2-97 to 16-7-99.

(b) The respondents shall pay the interest within 2 months from the date of receipt of a copy of this order.

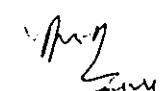
(c) The respondents are at liberty to recover the said amount from the official who was solely responsible for making delayed payment after providing him an opportunity to explain.

12. With the above direction the OA is allowed in part. No order as to costs.


B.S.JAI PARAMESHWAR
1.12.99
MEMBER (JUDL.)

Dated : The 1st December, 1999.
(Dictated in the Open Court)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH,
HYDERABAD.

1ST AND 2ND COURT

COPY TO.

1. HON. J.
2. HON. M. (ADMIN)
3. HON. M. (JUD)
4. D.R. (ADMIN)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE HON'BLE MR. JUSTICE DH. NASIR,
VICE-CHAIRMAN

THE HON'BLE MR. R. RANGARAJAN
MEMBER (ADMIN)

THE HON'BLE MR. B. S. JAI PARAMESHWAR
MEMBER (JUD)

DATE OF ORDER 11/2/99

MA/PA/CP. NO.

IN
CA. NO. 816/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

(8 copies)

CP CLOSED

PA/CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

