

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.280/95

Date of order: 4/10/2005

1. Vinod Sharma, S/o late Sh.Tara Chand Sharma, R/o 1297, Mangon ka Rasta, Kishanpole Bazar, Jaipur.
2. Hemant Sharma, S/o late Sh.Tara Chand Sharma, R/o 1297, Mangon ka Rasta, Kishanpole Bazar, Jaipur.

...Applicants.

Vs.

1. Union of India through Secretary, Mini. of Defence, South Block, New Delhi.
2. Chief Controller of Defence Accounts (P), Allahabad.
3. Administrative Commandant (Adm.Comdt.) Station Headquarters, Jaipur.

...Respondents.

Mr.P.P.Mathur : Counsel for applicants

Mr.Bhanwar Bagri : Counsel for respondents.

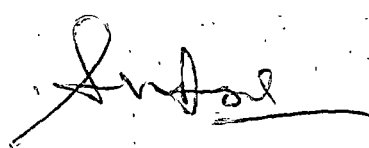
CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

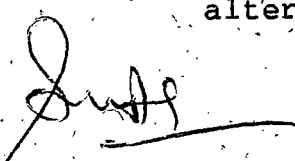
In this O.A filed under Sec.19 of the ATs Act, 1985, the appliants make a prayer to direct the respondents to make payment of interest on delayed payment on gratuity, GPF, Bonus and salary for the month of July 1985 and for the period from 23.8.87 to 30.9.87.

2. In brief the case of the applicant is that applicant challenged the order dated 5.1.84 by way of a Civil Suit which was transferred to Jodhpur Bench of the Tribunal and was registered as T.A No.350/92. It is stated that the said T.A was decided on 29.7.93 by which the Tribunal issued direction that the applicant shall be treated as Telephone



Supervisor in the regular pay scale Rs.425-700. The Tribunal issued further direction that on account of order of reversion, if any recovery has been made the same should also be refunded. It is also held that the applicant is entitled to get benefits which are admissible to the post of Telephone Supervisor and shall be deemed to have continued on regular basis. The Tribunal issued further direction that the applicant is entitled to all consequential benefits such as revision of pension, gratuity and all other pensionary benefits, as per law. It is stated that for compliance of the said directions of the Tribunal in T.A No.350/92, the applicant was constrained to file Contempt Petition and was paid Rs.38735/- vide order dated 9.9.94 and the contempt petition was disposed of vide order dated 23.11.94 on the ground that no case of contempt was made out. It is stated that the applicant is entitled to get interest on delayed payment of gratuity, GPF, Bonus and salary, as per Schedule-A annexed with the O.A. Therefore, the applicant filed this O.A for the relief as above.

3. Reply was filed. It is stated in the reply that this application is hopelessly barred by limitation. It is also stated that the applicant preferred T.A No.350/92 which was decided on 29.7.93. It is stated that the Contempt Petition filed by the applicant was also dismissed vide order dated 23.11.94. It is also stated that the applicant had agitated the controversy before this Tribunal vide T.A No.350/92 which was decided on 29.3.93 therefore, the applicant cannot reagitate the same issue which had already been agitated by the applicant in the earlier TA. It is stated that the applicant approached this Tribunal without exhausting the alternative remedy available to him, therefore, the



applicant has no case and this O.A devoid of any merit is liable to be dismissed.

4. Rejoinder has also been filed which is on record.

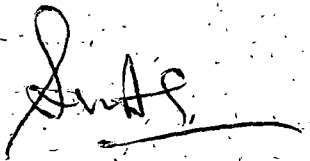
5. Heard the learned counsel for the parties and also perused the whole record.

6. There is no provision of law under which interest can be granted on arrears of salary. There are no special equities in favour of the applicant which could justify the grant of interest in favour of the applicant looking to the facts and circumstances of this case.

7. Admittedly, the applicant retired on 30.9.87. In the relief clause of this O.A the prayer of the applicant is "that the respondents may be directed to make the payment of the interest on the delayed payment of gratuity, GPF, bonus, salary for the month of July 85 and salary for the period 23.8.87 to 30.9.87 and the other delayed amount reference of which has been given in the O.A".

8. A bare perusal of this relief clause, it is abundantly clear that the applicant is claiming interest on salary for the period 1985 to 1987 and on delayed payment of gratuity, GPF, bonus, etc. On a perusal of Schedule-A, the claim made by the applicant appears to be hopelessly barred by limitation. Sec.21 of the Administrative Tribunals Act, 1985 provides for limitation of filing O.A. According to this provision, the applicant is required to file the O.A within one year from the date of passing the order. But in this case, the applicant admittedly filed this O.A after approximately 2 years, therefore, in my considered view, this O.A is hopelessly barred by limitation.

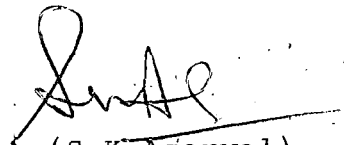
9. The applicant has earlier filed T.A No.350.92 which was decided on 29.7.93 by this Tribunal and for compliance



of the directions given by this Tribunal, a Contempt Petition was also filed which was dismissed vide order dated 23.11.94 on the ground that directions have been complied with. As the applicant had already agitated the controversy in T.A No.350/92 which was decided on 29.7.93 and Contempt Petition was also dismissed as the directions have been complied with, therefore, the applicant cannot reagitate the same issue on the principle of resjudicata as it has been held in Capt.S.C.Gulati Vs. Union of India & Ors, 1998(1) ATJ (Allahabad) 242. In this case, it has been categorically held that if the applicant has repeated the same plea which he has raised in earlier O.A, the pleas have already been adjudicated in the earlier O.A cannot be permitted to be raised on the basis of the principle of res-judicata.

10. In view of above all, the claim of the applicant, in my considered view, is not sustainable and this O.A devoid of any merit is liable to be dismissed.

11. I, therefore, dismiss this O.A having no merit with no order as to costs.



(S.K.Agarwal)

Member (J).