

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

GA No.437/1995

Date of order: 28.5.1998

Khanchand Ambwani (deceased) through his legal heirs-  
Sheela Devi W/o Khanchand Ambwani and Anil Ambwani S/o Khanchand  
Ambwani, 1-IA-14, Rajasthan Housing Board, Krishnanagar,  
Bharatpur.

.. Applicants

Versus

1. Union of India through the Secretary to the Govt. of India,  
Department of Posts, Ministry of Communications, New Delhi.
2. Director General, Department of Posts, Dak Bhawan, Sansad  
Marg, New Delhi.
3. Chief Postmaster General, Rajasthan Circle, Jaipur.
4. Director Postal Services, Jaipur Region, Jaipur
5. Superintendent of Post Offices, Bharatpur Division,  
Bharatpur.

.. Respondents

Mr.H.L.Thawani, counsel for the applicant

Mr. M.Pafiq, counsel for the respondents

CORAM:

Hon'ble Mr. Ratan Prakash, Judicial Member

ORDER

For Hon'ble Mr. Ratan Prakash, Judicial Member

Applicant herein Shri Khan Chand Ambawani has approached  
this Tribunal under Section 19 of the Administrative Tribunals  
Act, 1985 to seek a modification of the impugned order dated  
15.7.1994 (Ann.A1) so as to grant him compound interest at the  
rate of 24% plus 6% penal interest on the delayed payment of the  
D.C.E.G. He has further sought appropriate direction to the  
respondents to make him payment of the compound interest for the  
period of delay in payment of commutation value and amount of  
leave encashment.

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2. The facts as placed by the applicant in brief are that the applicant while working as Assistant Post Master, Head Post Office, Eharatpur City retired on superannuation on 31.3.1991. However, just before his retirement on 4.3.1991 he was served with a chargesheet under Rule 14 of the CCS(CCA) Rules, 1965. This chargesheet was subsequently dropped by the Director, Postal Services, Jaipur Region, Jaipur vide Memo dated 2.7.1993 in pursuance of the Department of Posts, New Delhi's letter dated 29.6.1993.

3. It is the case of the applicant that though a provisional pension of Rs. 973 was sanctioned w.e.f. 1.4.1991 but he was neither allowed to commute pension nor granted Death-cum-Retirement gratuity besides denial of leave encashment. According to the applicant, he was, however, sanctioned the following amounts after a lapse of about 27 months from the date of retirement:

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| 1. D.C.R.G. Memo No. Pen/JF/PC/185<br>/GPO/4677/1561 dt. 30.7.93 | Rs. 32,175   |
| 2. Pension Memo No. Pen/JF/PC/185<br>90-91/B-1559 dt. 30.7.93    | Rs. 973 P.M. |
| 3. Commutation w.e.f. 1.8.93                                     | Rs. 38142    |
| 4. Leave encashment. Memo not given                              | Rs. 22771    |
| 5. D.C.R.G. withheld amount paid on<br>1.12.93                   | Rs.1000      |

4. He made a representation to the Director General, Department of Posts on 24.2.1994 (Ann.A6). The applicant, however, admits that he has received a sum of Rs. 5,979 as interest on delayed payment of D.C.R.G. of Rs. 32,175 vide Ann.A1 without mention of interest on delayed payment of leave encashment and commutation. He, therefore, again made a representation to the Director General, Department of Posts, New Delhi on 4.10.94 (Ann.A7).

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Having heard nothing about his grievance, he has approached this Tribunal to claim the aforesaid relief.

5. The respondents have opposed this application by filing a written reply to which no rejoinder has been filed. The stand of the respondents has been that the applicant has already been paid the amount of D.C.R.G. alongwith the interest thereon as per Rules and it has been received by the applicant on 6.8.93. It has been urged that since disciplinary proceedings have been pending against the applicant for manipulating and deliberately making fictitious entries representing the issue/sale of KVP/IVP in the respective stock registers maintained in the Bharatpur City Head Office during the period 3.5.1989 to 4.11.1989; and the enquiry was being held, which was pending at the time of his retirement; the sanction of the D.C.R.G. and leave encashment could not be finalised immediately. It is also averred that there being no provision of payment of interest on the payment of leave encashment and on commutation, the applicant would not be entitled to claim any interest on it. That the disciplinary proceedings having been dropped by the Director General of Posts, New Delhi vide their Memo dated 29.6.93, the applicant has been paid leave encashment, gratuity and commutation of pension on 27.7.93, 6.8.93 and 4.8.93 respectively. According to the respondents, as per the Government of India decision in para 3 below Rule 68(5) of the CCS (Pension) Rules, 1972 when a Government servant on conclusion of the proceedings is fully exonerated then the interest on delayed payment of D.C.R.G. may be allowed. The interest amounting to Rs. 5,979 was paid to the applicant on account of the delayed payment of D.C.R.G. amounting to Rs. 32,175 for the period between 1.4.1991 to 5.8.1993. It has, therefore, been urged that since the interest on the amount of D.C.R.G. has already been paid, the claim now

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made by the applicant to enhanced rate of interest is not tenable and the OA deserves rejection.

6. As is made out from the pleadings of the parties, it is apparent that the applicant has been paid the amount of leave encashment, gratuity and commutation of pension as is also evident from the statement given by the applicant in his OA which has been reproduced above. Moreover, the learned counsel for the applicant having failed to draw attention to any provision/rule for payment of interest on leave encashment, gratuity and commutation of pension; the only point of dispute which remains now to be determined in this OA is whether the applicant is entitled to the payment of interest at the rate of 24% p.a. on the delayed payment of D.C.R.G. amount of Rs. 32,175 for the period from 1.4.91 to 5.8.93.

7. On a perusal of the order dated 15.7.94 (Ann.A1), the respondents have paid an amount of Rs. 5,979 towards interest on delayed payment for the aforesaid period. On calculation, it is found that this amount comes when the calculations are made at the rate of around 7%. By virtue of OM No. 7/3/84-Pension Unit, dated the 28th July, 1984 under the CCS (Pension) Rules, 1972; the rate of interest allowable has been 7% p.a. beyond 3 months and upto one year; and beyond one year, 10% p.a. The learned counsel for the applicant has, however, not been able to place any authority on the basis of which the applicant could be allowed an enhanced rate of interest at the rate of 24% p.a. for the period of delayed payment of his D.C.R.G. amount.

8. Though the learned counsel for the parties have not placed the latest position with regard to the rate of interest payable on the delayed payment of D.C.R.G. amount, yet by the Government

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of India's OM No. 7/1/93- P.S.P.W.(F) dated 25th August, 1994 of Department of Pension and FW (printed as Government of India decision No. (2) at page 169 of Swamy's Pension Compilation incorporating CCS Pension Rules, 14th Edition 1998), it has been decided that where the payment of D.C.P.G. has been delayed beyond 3 months from the date of retirement, an interest at the rate applicable to GPF deposits (at present 12 per cent compounded annually) will be paid to dependants of retired/deceased Government servants. Further as per the Govt. of India's decision printed at Sl.No.3 at page 170 of the aforesaid Swamy's Pension Compilation; sub clause 2(i)(a) lays down ~~that~~ the rate of interest which has to be paid in cases of Govt. servants against whom disciplinary/judicial proceedings are pending on the date of retirement and in which gratuity is withheld till the conclusion of the proceedings. It reads :-

"In such cases if the Government servant is exonerated of all charges and where the gratuity is paid on the conclusion of such proceedings, the payment of gratuity will be deemed to have fallen due on the date following the date of retirement vide OM No. 1(4)/Pen. Unit/93, dated the 10th January, 1983 [Para.3 of Decision (1) above]. If the payment of gratuity has been authorised after three months from the date of his retirement interest may be allowed beyond the period of three months from the date of retirement."

Reading the aforesaid two provisions together it is made out that in the cases of employees who have superannuated/retired before the OM dated 25th August, 1994, the rate of interest payable on delayed payment of D.C.P.G. amount would remain at 7% p.a. if the delay has been beyond three months and upto one year and 10% p.a. if the delay is beyond one year. The applicant having been superannuated on 31st March, 1991 and in view of

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the dropping of the disciplinary proceedings by the respondent Department against him, it would be deemed that he has been exonerated of all the charges and that by virtue of sub clause 2(i)(a) aforesaid he has to be paid interest at the rate of 7% p.a. beyond three months upto one year and at the rate of 10% p.a. for the period beyond one year. It would further be deemed that the payment of gratuity fell due on the date following the date of the applicant's retirement i.e. 31st March, 1991. The applicant therefore has to be paid interest at the rate of 7% p.a. beyond three months of his date of superannuation i.e. 31.3.1991; upto one year and thereafter for the period beyond one year; at the rate of 10% p.a. on the delayed payment of gratuity by the respondent Department.

9. In fact the respondents have also made payment of Rs. 5979 on delayed payment of D.C.R.G. amounting to Rs. 32,175 for the period from 1.4.1991 to 5.8.1993 to the applicant. This payment has been in perfect consonance with the rate of interest applicable to the applicant as per the rate invoked vide OM dated 29th July, 1984 referred to above.

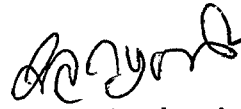
10. The argument of the learned counsel for the applicant that the applicant should be paid interest at the enhanced rate of 24% p.a. is not tenable more so when there are specific decisions of the Govt. of India with regard to delayed payment of D.C.R.G. as notified in their OM No. 7/3/84-Pension Unit dated 29th July, 1984. Though the aforesaid rates of interest have been revised and enhanced to 12% beyond 3 months from the date of retirement/ superannuation vide OM dated 25th August, 1994 referred to above, yet the applicant having superannuated on 31st March, 1991 is not entitled to claim this rate of interest on the delayed payment of his D.C.R.G. amount.



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11. For all the above reasons, there being no justification for payment of any enhanced rate of interest on the delayed payment of D.C.R.G. amount payable to the applicant; and the applicant having been correctly paid an amount of Rs. 5979 and that too as per the prevalent rate of interest on delayed payment of D.C.R.G., the issue raised in this OA is answered in the negative. The OA, therefore, deserves rejection and is hereby rejected with no order as to costs.



(Ratan Prakash)

Judicial Member