

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/00657/2014

Order Reserved on: 07.11.2016

Date of Order: 18.11.2016

CORAM

Hon'ble Ms. Meenakshi Hooja, Administrative Member

Babu Singh aged about 55 years, S/o Shri Ladu Singh, R/o VPO-Loha, Tehsil Ratangarh, Distt. Churu (Raj.), presently staying in 8, Gokulpura, Near Nalanda School, Jaipur (Raj.).

.....Applicant

(By Advocate Mr. R.S.Bhaduria)

VERSUS

1. The Union of India through Secretary to the Govt. of India, Ministry of Defence, New Delhi-110011.
2. The Principal Controller of Defence Accounts(Pension), Dropati Ghat, Allahabad (UP).
3. The Commanding Officer 61 Sub Area, PIN: 908661 C/56 APO.

.....Respondents

(By Advocate Mr. N.C.Goyal)

ORDER

This OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 aggrieved with non-payment of interest on delayed retirement benefits and thereby seeking the following reliefs:-

- 8.i) issue an appropriate order or direction commanding the respondents to pay 24% interest on the arrears of the pension which works out to be Rs.3,53,383/- till the date of payment of dues.
- ii) issue an appropriate order or direction which may be deemed fit and proper in the facts and circumstances of the case in favour of the applicant.
- iii) Cost to be awarded in favour of the applicant.

2. When the matter came up for consideration and hearing on 07.11.2016, the Ld. counsel for the applicant, with reference to the averments made in the OA, submitted that the applicant who was working as a Cook in the office of respondent No.3 i.e. Commanding Officer 61 Sub Area, sought voluntary retirement on 06.10.2012 w.e.f. 01.01.2013 under Rule 48A of the Central Civil Service (Pension) Rules, 1972 which require 3 months' notice. The applicant was however allowed voluntary retirement w.e.f. 31.01.2013. He thereafter referred to letter dated 23rd September, 2016 Ann.A/4 which is correspondence addressed to respondent No.2 i.e. Principal Controller of Defence Accounts (Pension), Allahabad by respondent No.3 wherein it has been mentioned that the applicant has been retired from the service w.e.f. 31.01.2013 and awaiting for his Pension Payment Order for long and facing great financial hardship. Counsel for applicant submitted that this letter was sent with reference to letter of respondent No.2 dated 25.4.2013 Ann.R/1 and submitted that this letter (Ann.R/1) does not refer to any action or document which are required to be submitted by the applicant, but refers to many other letters sent by respondent No.2 in the months of May, June, July, August and September, 2013. He further submitted that with reference to Ann.A/4 that the applicant was permitted to visit the office of Respondent No.2 to obtain his Pension Payment Order but he was not allowed to meet anybody but was returned with the letter Ann.A/5 dated 24.09.2013 that his pension

case has been returned to the Head Office with certain objections and only on receipt of a correct claim, his pension will be notified. Vide letter dated 14.10.2013 Ann.A/6 again all the complete and rectified papers were sent by respondent No.3 to respondent No.2 but no pension and other retirement benefits were sanctioned.

3. Counsel for applicant further contended that procedure of completion of pension case is laid down under Rule 59 to 64 in the CCS (Pension) Rules, 1972 and Rule 64 provides for provisional pension also but the applicant was not even given any provisional pension and after waiting a long time he served a legal notice Ann.A/8 dated 08.12.2013 to respondent No.2. The respondents finally sanctioned the pension and DCRG vide Civil Pension Memo dated 17.02.2014 (Ann.A/1) and Rs.3,53,383/- was deposited in his bank account taking more than a year's time. Counsel for applicant also referred to Ann.R/1, R/2 and R/3 filed by the respondents with the reply, and submitted that these are actually internal correspondences between respondent No.2 and 3 and from the perusal of which it is clear that there was no short-coming on the part of applicant in submitting any documents or taking any action regarding his pension papers and that after retirement it is the duty of the concerned office to prepare the pension papers on time and if the said papers are not prepared or signed properly by the concerned authorities then the applicant cannot be held responsible and penalized for the same. He therefore, prayed that for the delayed payment, interest @ 24% may be given from the date of retirement i.e.

31.01.2013 to the date of issue of Civil Pension Memo payment of pension i.e. 17.02.2014 and the OA be allowed.

4. Per contra, counsel for respondents submitted that the applicant has sought interest on delay in payment of pension but there is no provision in the Rules for payment of any interest in such a matter. He further submitted that neither the applicant has alleged any malafide nor was there any malafide regarding sanction of pension and the pension and gratuity were sanctioned after completion of all papers as per required procedures. In this regard Counsel for respondents submitted that the applicant applied for pre-mature/voluntary retirement on 06.10.2012 seeking retirement with effect from 01.01.2013 and though he did not give complete 3 months' notice yet his case was approved on 31.10.2012 for retirement w.e.f. 31.01.2013. Counsel for respondents submitted that as can be seen from Ann.R/1 dated 25.04.2013, R/2 dated 24.09.2013 and R/3 dated 04.12.2013 certain formalities were required to be completed before sanction of pension. Vide letter dated 25.04.2013 (Ann.R/1), respondent No.2 has returned the documents that individual has not forwarded Medical Option form. The applicant submitted his option certificate for Medical Allowance on 15.05.2013 which was forwarded on 17.05.2013. On the Pension claim, as further received on 19.07.2013 (Diary No. CSO 122142013), there were certain Audit objections and letter dated 24.09.2013(Ann.R/2) was sent to Respondent No.3 for compliance. There were certain more audit objections to the claim as received on

24.10.2013 (Diary No. CSO 188492013) and thereafter the matter was sent to Respondent No.3 for compliance vide letter dated 04.12.2013 (Ann.R/3). Necessarily respondent No. 2 had to get various information and correct documents from respondent No.3 where the applicant had served, and once these papers were finally completed in all respect and received on 03.01.2014 the case of the applicant was processed promptly and pension order issued as at Ann.A/1 dated 17.02.2014.

5. In rebuttal, the counsel for applicant contended and reiterated that the respondents have not been able to show any short-coming on the part of applicant in not providing the relevant information and whatever objections/shortcomings/audit objections have been pointed out in internal correspondence Ann.R/1, R/2 and R/3, the applicant cannot be held responsible for the same and as even provisional pension was not sanctioned and the pension was sanctioned after more than one year, he is entitled to interest on delayed payment. In support of his contention, he also relied upon the judgment of the Hon'ble Punjab and Haryana High Court in the case of A.S. Randhawa Vs. State of Punjab in CWP No.2883 of 1997 decided on 16.05.1997 1997(3)SCT-Page 468-473 wherein it has been held that "there is no satisfactory explanation for the delay in disbursing the retiral benefits to the petitioners and they are, therefore, entitled to interest at the rate of 12% per annum for the period of delay on the amounts as paid to them."

6. Considered the aforesaid contentions and perused the record. It is an admitted fact that the applicant had sought voluntary retirement

under Rule 48-A of the CCS (Pension) Rules, 1972 and he was allowed the same w.e.f. 31.01.2013. The main contention of the counsel for the applicant is that the applicant was neither sanctioned provisional pension as per Rule 64 CCS (Pension) Rules, 1972 and even the final Pension Payment Order was made on 17.02.2014 i.e. more than one year after his retirement and that there was no fault or shortcoming in submitting the relevant documents or doing the needful on his part; and for the time taken for completing various procedures by the respondents, as evident from exchange of correspondence between respondent No.2 and 3, he cannot be held responsible and deprived of the interest due to him for delayed payment of his Pension and other retiral benefits including gratuity. On the other hand counsel for respondents has contended that the Pension order was issued on 17.02.2014 (Ann.A/1) after completion of all formalities and procedures which is evident from Ann.R/1, R/2 and R/3 and was not at all on account of malafide but due to procedural requirement and there is no provision in the Rules for payment of interest on delayed payment. In this regard it appears from the perusal of record of Ann.A/4 dated 23.09.2013, Ann.A/6 dated 14.10.2013, Ann.R/1 dated 25.04.2013, Ann.R/2 dated 24.09.2013 and Ann.R/3 dated 04.12.2013 that these are internal correspondences between respondent No. 2 and 3 but they do not reflect any major shortcoming or delay in submission of any document by the applicant, except that in the reply it has been mentioned that the applicant submitted medical option form on



15.05.2013. However, there is nothing on record to suggest that the applicant was asked to submit certain documents/information which he failed to do so. It is also noted that even if certain formalities and procedures are required to be fulfilled for sanction of the payment as brought out vide Ann.R/1, R/2 and R/3 the respondents could have at least paid provisional pension as provided under Rule 64 of CCS (Pension) rules, 1972 as they themselves have accepted the voluntary retirement of the applicant w.e.f. 31.01.2013, but even the provisional pension was not sanctioned and the pension order and gratuity took more than a year's time, therefore, there is force in the contention of the counsel for the applicant that he cannot be held responsible for any delay and deserves to be compensated by way of interest on delayed payment.

7. Pension is a statutory right of a retired employee and therefore, taking into account the entire facts and circumstances of the case, including the fact that the applicant submitted his medical option form in May, 2013 and further that he was not even sanctioned any provisional pension and pension orders were issued only on 17.2.2014 (Ann.A/1) due to time taken in completion of various procedural formalities for which he was not responsible and keeping in view the judgment of the Hon'ble Punjab and Haryana High Court in the case of A.S. Randhawa Vs. State of Punjab in CWP No.2883 of 1997 decided on 16.05.1997 1997(3)SCT-Page 468-473 (supra) it is considered just and fair to direct the respondents to pay interest to the applicant for delayed



payment of his pension and other retiral benefits from June, 2013 (i.e. after submission of Medical Option Form in May,2013) to 17.02.2014 i.e. the date of sanction of pension, at the current interest rate per annum applicable on GPF (General Provident Fund). Accordingly, the respondents are directed to pay interest as above to the applicant within a period of four months from the date of receipt of this order failing which they will be required to pay interest @ 18% per annum if there is any further delay.

With these directions the OA is allowed to the extent as above, with no order as to costs.


(Ms. Meenakshi Hooja)
Administrative Member

Adm/