

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO. 291/00126/2014

Order reserved on : 2.1.2015
Date of Order: 08.1.2015

CORAM

HON'BLE MR.ANIL KUMAR, ADMINISTRATIVE MEMBER

Parmanand Sharma S/o Late Shri Laxminarayan Sharma, aged 65 years, (Senior Citizen), resident of 345, Shri Gopal Nagar, Gopalpura Bye-pass, Jaipur retired from the post of CSS(ST 296) form SDC Phones Triveni Nagar BSNL, Jaipur and presently as an Advocate of Rajasthan High Court, Jaipur

.....Applicant

(By Applicant himself)

VERSUS

1.The Chairman and Managing Director, BSNL, 12 Khamba Road, New Delhi.

2.The Principal General Manager Telephones Distt. BSNL, M.I.Road, Opp. G.P.O., Jaipur.

.....Respondents

(By Advocate Mr. K.S.Sharma)

ORDER

(Per Hon'ble Mr. Anil Kumar, Administrative Member)

The applicant has filed the present OA praying for the following reliefs:-

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8. In conspectus of above state of facts and chronicle account of applicant's consistent harassment for non-payment of interest it is prayed to Hon'ble Tribunal that this Hon'ble Tribunal may very graciously be pleased allow the O.A. and thereby respondents be directed to make the payment of interest @ 24% p.a. from 30.4.2011 to 2.5.2013 on the amount of withheld by the respondents on 30.8.2009 which was paid by the order of Hon'ble CAT as on 3.5.2013.

The applicant may also be awarded expenditure of Legal Notice dated 31.7.2013 Rs.3100/- and expenses of OA No.657/2012 Rs.11000/- and expenses of this Original Application.

2. Heard the applicant and the learned counsel for respondents and perused the documents on record & case law as referred to by the applicant. The applicant argued that he was an employee of the respondents. He retired from service on 31.8.2009. That the applicant has filed the present OA being aggrieved from non-payment of interest on the amount received by the applicant as on 3.5.2013 in which DCRG, regular pension and commutation of pension was paid to the applicant. That the applicant issued a legal notice through his counsel on 31.7.2013 but respondents have not even replied the said notice.

3. The applicant submitted that at the time of superannuation on 31.8.2009, a minor penalty inquiry proceedings was pending against him. He drew my attention to the order of retirement dated 31.8.2009(Ann.A/3) in which it has been stated that :-

"The VC has been withheld in respect of Shri P.N.Sharma CSS(ST-1/206) shown at S.No.04. The

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A.O.(Cash)South is requested to regulate his provisional pension in accordance with the relevant provisions of CCS(Pension)Rules, 1972. The DCRG and commuted value of pension (CVP) in respect of the above mentioned official should be withheld till the conclusion of the vigilance /disciplinary case as per CCS(Pension) Rules,1972."

Thus the amount of DCRG and commuted value of pension was to be withheld till the conclusion of the disciplinary case against him. The applicant submitted that the disciplinary case was finalized vide order dated 30.4.2011 (Ann.A/4) and thus he was entitled for the payment of Gratuity as well as commuted value of pension w.e.f. 30.4.2011. The applicant actually received the payment of these amounts on 3.5.2013, therefore, the applicant is legally entitled to interest @ 24% from 30.4.2011 to 2.5.2013. Therefore, the respondents be directed to make payment of interest @ 24% per annum on the amount being paid to the applicant for Gratuity and commuted value of pension. In support of his averments the applicant referred to the following case law:-

1. D.D.Tewari(D)Thr. Lrs. Vs. Uttar Haryaya Bijli Vitran Nigam Ltd. & Ors. 2014(2)WLC (SC) Civil 417-419;
 2. State of Kerala and others Vs. M.Padmanabhan Nair AIR 1985 Supreme Court 356-357;
 3. Dr.Uma Agrawal Vs. State of U.P. and another AIR 1999 Supreme Court 1212-1214 and
 4. Samjathaben(Smt.) Vs. Union of India & Ors. Central Administrative Tribunal, Ahmedabad AISLJ 2012(CAT) 108-116.
4. On the other hand the Ld. Counsel for the respondents argued that the applicant had earlier filed an OA No.657/2012 praying for the following relief:-

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(i) That the present Original application may kindly be allowed and by way of an appropriate order, directions may be issued to the respondents to give all the terminal benefits to the applicant which includes regular pension, commuted value of pension, DCRG alongwith arrears. The applicant is also entitled for the interest on the delayed period @ 24% per annum.

(ii) Any other order or direction which deem fit and proper in the facts and circumstances of the case may also be passed in favour of the applicant.

(iii) Cost of this Original application also may be awarded in favour of the applicant.

The Hon'ble Tribunal decided the OA vide order dated 17.1.2013(Ann.A/4). The operative part of the order dated 17.1.2013 is quoted below:-

"7. In view of the submissions made by the learned counsel for the parties, the respondents are directed to release all the retirement benefits including the benefit of the 6th Pay Commission to the applicant after the applicant deposits Rs.211.20 even under protest with the respondents. The respondents are expected to release retirement benefits of the applicant, as stated above, expeditiously but not later than a period of three months after the deposit of Rs.211.20 by the applicant with the respondents."

5.The learned counsel for the respondents submitted that the Tribunal vide its order dated 17.1.2013 did not consider the request of the applicant for grant of interest though a specific prayer was made in the OA to that effect. That the applicant also did not challenge this order before the Hon'ble High Court. The applicant is estopped from filing of the present OA for the same relief as was claimed by the applicant in his earlier OA No.657/2012. Therefore, the present OA deserves to be dismissed with costs.

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6. The learned counsel for the respondents submitted that in compliance of the order of the Tribunal dated 17.1.2013 in OA No.657/2012 the applicant deposited Rs.211.20 on 24.1.2013. Moreover, the applicant was directed to submit Form-1 duly completed. The applicant submitted this form on 23.4.2013(Ann.R/7). Thereafter, the respondents have made the payment to the applicant of Gratuity and commuted value of pension on 3.5.2013 thus there is no delay on the part of respondents in making payment to the applicant. The Tribunal vide order dated 17.1.2013 in OA No.657/2012 had given 3 months time to the respondents to release retirement benefits to the applicant. From the above facts it is clear that there has been no delay on the part of the respondents for making payment to the applicant and hence the applicant is not entitled for any interest.

7. Having heard the rival submissions of the parties and after the careful perusal of the documents on record and the case law as referred to by the applicant I am of the view that the applicant has failed to make out any case of relief in the present OA. It is not disputed that the applicant had filed earlier an OA No.657/2012 in which also the applicant had prayed for interest @ 24% per annum for delayed payment of regular pension, commuted value of pension and DCRG. This OA was decided by this Tribunal on 17.1.2013. While deciding the OA the applicant was directed to deposit

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of Rs.211.20 even under protest with the respondents and the respondents were directed to release the retirement benefits of the applicant expeditiously but not later than a period of 3 months after the deposit of Rs.211.20 by the applicant with the respondents. The Tribunal did not allow any interest to the applicant in that order(Ann.A/4). After the order dated 17.1.2013 the applicant deposited Rs.211.20 on 24.1.2013 and Form-I on 23.4.2013(Ann.R/7). The applicant has admitted that thereafter the respondents have paid the regular pension, commuted value of pension and DCRG to the applicant on 3.5.2013. Thus there is no delay on the part of the respondents in making payment to the applicant as directed by the Tribunal vide order dated 17.1.2013(Ann.A/4). I have carefully perused the case law as referred by the applicant in support of his averments and I am of the opinion that under the facts and circumstances of the present OA the ratio decided by the Hon'ble Supreme Court in the case of D.D.Tewari (Supra), State of Kerala and Others (Supra), Dr. Uma Agrawal (Supra) is not applicable under the facts and circumstances of the present OA. In these cases the Hon'ble Supreme Court has held that an employee is entitled for payment of interest where there is delay in disbursement of his retirement dues by the Government. However, in the present OA there is no delay on the part of respondents in

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making payment of the dues of the applicant. I have also perused the order of the Central Administrative Tribunal, Ahmedabad in the case of Samjathaben(Smt.) (Supra). In this case the OA was dismissed by the Tribunal and it was held that the loss caused to the Government/Railway can be recovered from DCRG. In the present case also the applicant was to deposit Rs.211.20 but he did not deposit. He deposited this amount only after the orders of the Tribunal dated 17.1.2013. The amount was deposited on 24.1.2013 and Form-I was submitted by the applicant on 23.4.2013 and the respondents released payment on 3.5.2013. Thus there is no delay on the part of the respondents in releasing the amount. Hence the applicant is not entitled for any interest on the amount released to him.

8. On the basis of the above discussions I do not find any merit in the OA. Consequently, the OA being devoid of merit is dismissed with no order as to costs.


(ANIL KUMAR)
ADMINISTRATIVE MEMBER