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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 7.11.2000

OA 379/96 with MA 95/98

Hari Ram Verma, Ex Sub Postmaster, Govindgarh, Post Samoochi, Kherli,
District Alwar.

... Applicant

Versus

1. Union of India through Secretary, Ministry of Communication,
Telecommunication Department, Sanchar Bhawan, New Delhi.
2. Chief Postmaster General, Rajasthan Circle, Jaipur.
3. Dy. Director of Accounts (Postal), Rajasthan, Tilak Nagar, Jaipur.

... Respondents

CORAM:

HON'BLE MR. JUSTICE B.S. RAIKOTE, VICE CHAIRMAN

HON'BLE MR. N.P. NAWANI, ADMINISTRATIVE MEMBER

For the Applicant

... Mr. Arvind Soni, proxy counsel for
Mr. Mahendra Shah

For the Respondents


... Mr. Hemant Gupta, proxy counsel for
Mr. M. Rafiq

O R D E R

PER HON'BLE MR. JUSTICE B.S. RAIKOTE, VICE CHAIRMAN

This application is filed for a direction to the respondents to release the payment of interest @ 21% per annum on an amount of Rs. 144645/- w.e.f. 30.9.94 till the date of payment.


2. The original applicant Shri Hari Ram Verma, a retired government servant, died on 21.1.98 during the pendency of these proceedings. His widow, Smt. Kasturi Devi, has filed a separate MA (No. 95/98) for bringing her on record as legal representative of Late Shri Hari Ram Verma. On 28.10.98, this Tribunal passed an order stating that in the affidavit filed



in support of the said MA, the applicant has not stated whether she, Smt. Kasturi Devi, was the only surviving legal heir or there are other heirs left by the deceased. The applicant was directed to file an additional affidavit in support of this fact but from the records we find that till today she has not filed such affidavit.

3. The learned counsel for the applicant states that in spite of his instructions to the applicant's wife by letter, he has not received any instruction in this behalf so far. That MA also we propose to dispose of in this order.

4. In support of the prayer made, the applicant stated that he retired on 30.9.94 but gratuity and DCRG were not immediately paid to him. In those circumstances, he had to file OA 239/95 before this Tribunal and this Tribunal directed the applicant to make a representation to the concerned authorities. On that basis, the concerned authority i.e. Assistant Accounts Officer (Budget) for Chief Postmaster General, Rajasthan Circle, Jaipur, passed an order dated 22.8.95 directing to release all the retirement benefits to Shri Hari Ram Verma, Ex Sub Postmaster. Accordingly, the applicant was paid DCRG amount of Rs.40590/- on 10.10.95 vide Annexure A/2. Annexure A/2 further states that payment of commutation amount was enclosed delivering the same to the Postmaster M.D. Alwar asking him to make payment of the commutation amount on the day following the day of retirement subject to the condition that no departmental, judicial case has been instituted against the government servant till the date of retirement. Pension order also was sent to the concerned Postmaster. It is not disputed that the applicant ultimately received the entire pensionary benefits that he was entitled. Now the short case of the applicant is that he was entitled to the interest on that amount for the period from 30.9.94 (the date of retirement) to 10.10.95 or the date of payment. The applicant has claimed that an interest @ 21% may be allowed.



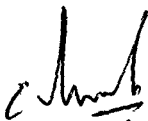
5. By filing reply the department denied the case of the applicant. The respondents have stated that the applicant was not entitled to any interest on the pensionary benefits given to him. They have also stated that there was no lapse on the part of the department for claiming such interest. They have also stated that immediately after the Tribunal passed the order, the representation of the applicant was considered and the pensionary benefits were given to him. Therefore, there was no delay on the part of the department. The respondents have also stated in their counter that a criminal case was contemplated against the applicant. However, without awaiting of any such proceedings, the retirement benefits have been given to the applicant. The learned counsel for the respondents also stated that under Rule-68 of the CCS (Pension) Rules, interests are payable only in case of delayed payment of DCRG after he is fully exonerated by the criminal court. It is also stated that there is no provision for payment of interest on the delayed payment, if any, and one third of the pension of the applicant was required to be deducted, pending certain proceedings against the applicant. In substance it is the case of the department that the applicant is not entitled to any interest on the pensionary amount received by him.

6. Heard. In the circumstances, and especially when no other heir has come forward during all this long period, we allow the M.A. and order that the wife of the deceased may be taken on record as his legal representative. As regards the case, it appears from reading of Rule-68 of the CCS (Pension) Rules, we find that there is a provision for payment of interest on the gratuity from the date such payment becomes due in case of delayed payment attributable to the administrative lapse in accordance with the instructions issued from time to time. The said rule further states that if the delayed payment was not on account of failure on the part of the government servant, such government servant would be entitled to interest. In other words, from this Rule-68 we find that there is a provision for payment of interest on the delayed payment of gratuity. No

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specific provision has been brought to our notice in relation to the delayed payment of the other amounts. The fact also remains that all the other amounts like commutation, leave encashment, CGEGIS, medical bill etc. were also paid only after the direction issued by this Tribunal. From the order of the Chief Postmaster General dated 22.8.95 (Annexure A/1) it is clear that as on the date of retirement no departmental proceedings were pending against the applicant. The only case the applicant filed was OA 239/95 complaining the delayed payment and in pursuance of the directions issued by this Tribunal in the said OA ultimately all the payments were made to the applicant vide order dated 10.10.95 (Annexure A/2). From this it follows that there was no delay attributable to the applicant. The said OA was filed by the applicant complaining the delay only. From this fact it follows that there was delayed payment attributable to the administrative lapse in terms of Rule-68 of the CCS (Pension) Rules. Vide Government of India, Dept.of Pen.& P.W., O.M.No.F.7/1/93-P.& P.W.(F), dated the 25th August, 1994, the Government of India has directed interest @ 12% compoundable annually on the delayed payment of DORG beyond three months from the date of retirement. Though the applicant has claimed interest @ 21% in the application but he would be entitled at least the interest @ 12% in terms of the said order of the government of India. For the above reasons, we pass the order as under :-

The OA is partly allowed and the respondents are directed to pay the interest @ 12% per annum on the amount of Rs.144645/- w.e.f. 30.9.94 to 10.10.95 or the actual date of payment. Three months time is granted for compliance of this order. No costs.



(N.P.NAWANI)

MEMBER (A)



(B.S.RAIKOTE)

VICE CHAIRMAN