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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 09.9.98

OA 543/96

Manoranjan Banikya, former Programme Executive, All India Radio, Shillong, r/o B-8, BNB Officers Colony, Malviya Nagar, Jaipur.

... Applicant

Versus

1. Union of India through Secretary, Ministry of Information and Broadcasting, New Delhi.
2. Sr.Accounts Officer, Ministry of Information & Broadcasting, AGCR Building, New Delhi.

... Respondents

CORAM:

HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN

For the Applicant

... Mr.K.C.Sharma

For the Respondents

... Mr.Zakir Hussain, brief holder
for Mr.M.Rafiq

O R D E R

PER HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN

Applicant, Manoranjan Banikya, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for adding the dearness relief in the impugned Pension Payment Order dated 4.1.96, at Annexure A-1, and a direction to the respondents to make payment of interest on the due arrears of pension from 26.4.83 to February, 1996 as also for a direction to make payment of interest on the GPF amount from 26.4.83 to July, 1986.

2. Applicant's case is that while serving as a Programme Executive in the All India Radio at Shillong, he was selected for appointment as a Publicity Officer in the Punjab National Bank, which is a Central Government Undertaking. Since the applicant was absorbed in a Central Government Undertaking after serving the All India Radio from 20.2.68 to 25.4.83, he was entitled to pro-rata pensionary benefits and gratuity etc. in terms of Rule 37 of the Central Civil Services (Pension) Rules, 1972. The applicant filed OA No.469/92 for a direction to the respondents to make payment of pro-rata pensionary benefits to him alongwith interest @ 12% per annum from the date the pensionary benefits fell due, and the aforesaid application was decided by an order of a Division Bench of this Tribunal dated 2.12.93. The operative portion of the order passed in the aforesaid OA reads as follows :-

"In the circumstances, we hold that the applicant is entitled to pensionary benefits as may be admissible under the Rules in lieu of

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the provisions of Rule 37 of the Pension Rules. The respondents are directed to grant the aforesaid benefits to him within a period of four months from the receipt of the copy of this order."

So far as the question of adding dearness relief in the Pension Payment Order dated 4.1.96, at Annexure A-1, is concerned, the learned counsel for the applicant conceded that the applicant is not entitled to claim any dearness relief on the aforesaid pension due to his absorption in the Punjab National Bank on the post of Publicity Officer. The applicant is still serving as a Publicity Officer. The applicant has claimed payment of interest on the arrears of pension and on the GPF amount. It is contended on behalf of the respondents that in the earlier OA No.469/92, which was decided on 2.12.93, the applicant was held entitled to the pensionary benefits as may be admissible under the rules in lieu of the provisions of Rule-37 of the Central Civil Services (Pension) Rules, 1972 and the respondents were directed to grant the aforesaid benefits to him within a period of four months from the receipt of the copy of the order. It is pertinent to note that the applicant had also claimed interest @ 12% per annum from the date the pensionary benefits had fallen due, in the earlier OA, but no order in regard to payment of interest was passed by a Division Bench of this Tribunal. It is stated by the respondents that the applicant has already been paid his retirement dues in accordance with the rules and due interest on GPF amount has also been allowed to the applicant. It is further stated that arrears of pension amounting to Rs.53750/- for the period from 26.4.83 to 31.12.95 has been paid in January, 1996 and from 1.1.96 onwards the applicant is getting monthly pension regularly through his Bank. Retirement gratuity amounting to Rs.9323/- has also been paid to the applicant. The present application has again been filed by the applicant claiming interest on the due arrears of pension from 26.4.83 till February, 1996 and interest on the applicant's GPF amount, which was paid to him in August, 1986. The applicant did claim interest @ 12% per annum on the retirement benefits due to him in the earlier OA. The relief for payment of interest was not granted to the applicant by a Division Bench of the Tribunal in the earlier OA. This subsequent OA for payment of interest is, therefore, not permissible. If the applicant was not paid the arrears of pension and other dues within four months from the date of receipt of the copy of the Tribunal's order dated 2.12.93, passed in OA No.469/92, he should have filed a Contempt Petition against the respondents. The learned counsel for the respondents cited (1996) 10 SCC 561, Commissioner of Income Tax, Bombay Vs. T.P.Kumaran, wherein Hon'ble the Supreme Court observed as follows :-

"4. The Tribunal has committed a gross error of law in directing the payment. The claim is barred by constructive res judicata under

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Section 11, Explanation IV, CPC which envisages that any matter which might and ought to have been made ground of defence or attack in a former suit, shall be deemed to have been a matter directly and substantially in issue in a subsequent suit. Hence when the claim was made on earlier occasion, he should have or might have sought and secured decree for interest. He did not seek so and, therefore, it operates as res judicata. Even otherwise, when he filed a suit and specifically did not claim the same, Order 2 Rule 2 CPC prohibits the petitioner to seek the remedy separately. In either event, the OA is not sustainable."

In the circumstances, the present application is not sustainable. It is, therefore, dismissed. No order as to costs.

Gopal Krishna
(GOPAL KRISHNA)
VICE CHAIRMAN

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