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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No.
T.A. No.

13 2/99

199

DATE OF DECISION 25/2/2000

Smt. Bharpai

Petitioner

Mr. Pyarelal

Advocate for the Petitioner (s)

Versus

Union of India & Ors.

Respondent

Mr. M. Rafiq


Advocate for the Respondent (s)


CORAM :

The Hon'ble Mr. S.K. Agarwal, Member (Judl)

The Hon'ble Mr. N.P. Nawani, Member (Adm)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *yes*
4. Whether it needs to be circulated to other Benches of the Tribunal ?


(N.P. Nawani)
Member (A).


(S.K. Agarwal)
Member (J).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.132/99

Date of order: 25-2-2000

Smt.Bharpai, W/o late Shri Nand Lal, R/c Village Mangalpur
Teh.Bahrod, Distt.Alwar.

...Applicant.

Vs.

1. Union of India through Secretary, Deptt.of Telecommunication, Sanchar Bhawan, New Delhi.
2. Telecom District Manager, 21, Maharana Pratap Cclony, Sawai-Madhopur.
3. Telecom District Engineer, Pundi.

...Respondents.

Mr.Pyare Lal - Counsel for the applicant

Mr.M.Rafiq - Counsel for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.N.P.Nawani, Administrative Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

This O.A was filed with a prayer to give directions to the respondents to pay all the dues of pay and allowances and retiral benefits to the applicant with interest @ 12% per annum.

2. Reply to this O.A was filed and in the reply it has been made clear that payment of all the retiral benefits has already been made as per details given in para 4 (iii) of the reply.

3. The learned counsel for the applicant has argued that the applicant is entitled to interest @ 12% per annum on the ground that the payment has been made to the applicant after more than 1½ years of the death of the deceased employee. On the other hand, the learned counsel for the respondents submitted that the applicant is not entitled to any interest because, the case of the applicant is different from the case of those attaining the age of superannuation. He further submits that after the death of the deceased employee, on the application of the claimant so many formalities have to be complied with. Even the department has to decide who is entitled to get the payment of retiral benefits of the deceased employee, therefore, the applicant is not entitled to any interest.

4. It is an admitted fact that Shri Nand Lal, husband of the applicant, who was working as Telephone Operator died on 2.11.97 and a request was made by the applicant for payment of retiral dues and family pension to her. Thereafter the case was forwarded to the competent authority vide letter dated 5.12.97 but the payment of the retiral dues could be made to the applicant in August - September 1999. The respondents in the reply have stated that the

payment of retiral dues and family pension have already been made to the applicant, therefore, no cause of action survives.

5. It is settled principle of law that if delay for payment in retiral dues seems to be unreasonable or unjustified, the applicant is entitled to interest on delayed payment.

6. In case of an employee who retires from the service and if the amount of retiral dues is not paid on the date of retirement, the payment is said to be delayed. But in case of an employee who dies in the course of service, payment will be made to his widow or the legal heirs as the case may be, after completing all the formalities. It is worthwhile to mention that for payment of pension and other retiral benefits to the employee on the date of retirement, pension case of the employee concerned is forwarded one year in advance, therefore, it can be very well said that for finalising the pension case of the retired employee there were sufficient time. But in case of an employee who dies suddenly the legal heirs of the deceased employee cannot get the pension and other retiral benefits without completing all the formalities and those formalities are very important in nature, like who will be the entitled person, etc. It has stated in the reply that the payment of retiral dues, arrears of pay and family pension, have already been made to the applicant in the month of August-September, 1999. Therefore, in our considered view, no case of payment of interest is made out against the respondents. Moreover, the applicant also failed to establish the fact that on account of the negligence of the respondents alone the payment of retiral dues, etc was delayed.

7. In State of Kerala Vs. M. Paomanabhan Nair, (1985)1 SCC 429, it was held that "Pension and gratuity are no longer any bounty to be distributed by the Govt to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment.". It was further held in this case that liability to pay penal interest commences at the expiry of two months from the date of retirement."

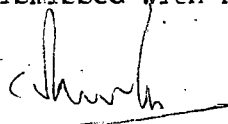
8. In the instant case, the applicant failed to establish any culpable delay in settlement and disbursement of the dues payable to the applicant. Merely that payment was made late to the applicant does not entitle for payment of interest. Therefore, in our considered view, the applicant is not entitled to any interest.

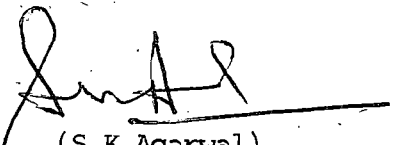
9. The learned counsel for the applicant also claimed

appointment of the applicant's son on compassionate ground. In the reply, it has been stated that the case for compassionate appointment has already been referred to the Chief General Manager Telcom Rajasthan, Jaipur, on which decision has not been taken by the competent authority. Therefore, with regard to the appointment on compassionate ground is premature.

10. In view of the reply filed to which there is no counter. We are of the opinion that the prayer of the applicant for giving direction for appointment on compassionate ground appears to be premature at this stage. Whenever the competent authority takes a decision on the matter and if the applicant feels aggrieved, she is free to approach this Tribunal for redressal of her grievance.

12. In view of the foregoing discussions, this O.A is dismissed with no order as to costs.


(N.P. Nawani)
Member (A).


(S.K. Agarwal)
Member (J).