

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No. 232/99

Date of order: 15/2/2001

O.P. Srivastava, S/o late Shri S.S. Srivastava, R/o 104-B  
Tagore Nagar, Ajmer Road, Jaipur.

...Applicant.

Vs.

Union of India through Under Secretary to the Govt of  
India Mini. of Personnel, Public Grievances & Pension,  
Deptt of Personnel & Training, North Block, New Delhi.

2. State of Rajasthan through the Chief Secretary, Govt.  
of Rajasthan, Secretariat, Jaipur.

3. Director, Pension & Pensioners Welfare Deptt, Govt. of  
Rajasthan, Vitt Bhawan, Jyoti Nagar, Jaipur.

...Respondents.

Mr. P.S. Asopa - Counsel for the applicant.

Mr. U.D. Sharma - 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.

In this Original Application filed under Sec. 19 of the  
Administrative Tribunals Act, 1985, the applicant makes the  
following prayers:

i) to quash and set aside the order dated 30.3.99 and to  
direct the respondents to pay full amount of gratuity  
including D.A or in the alternative grant interest @ 18% per  
annum on the amount of gratuity from the date of retirement  
alongwith interest @ 18% per annum on the delayed payment of  
commutation of pension and encashment of privilege leave from  
the date of retirement;

ii) to direct the respondents to make the payment of  
commutation of pension from the date of retirement on the  
revised pension amount of Rs. 7322/- from 1.1.96 onwards;

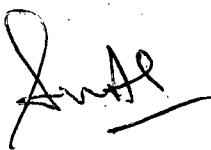
iii) to direct the respondents to pay damages for the delay caused in making payment of gratuity, commutation of pension and encashment of previlage leave on account of vague charge sheet.

2. Admitted facts in this O.A are that the applicant who was a member of Indian Administrative Service retired on superannuation w.e.f. 28.2.93 but his gratuity, leave encashment and commutation of pension was with-held due to pending disciplinary proceedings. It is also undisputed fact that the disciplinary proceedings had been dropped on 2.7.97 and thereafter all the retiral benefits had been released to the applicant as under:

- (i) Amount of gratuity and commutation of pension released vide letter No.F.1(6) Pers(A-1)/91 dated 6.7.97.
- ii) Payment of leave encashment in respect of 221 days of Earned leave made vide order No.F.1(6) Pers(A-1)/91 dated 4.7.97.
- iii) Interest allowed at 12% on the amount of gratuity vide order dated 14.8.1998.

Accordingly, the grievance of the applicant in this O.A remains that the applicant was not paid interest on gratuity w.e.f. 1.3.1993 whereas he has been paid interest on gratuity w.e.f. 1.7.93. No interest was paid to the applicant on the amount of leave encashment, commutation of pension w.e.f the date of his retirement.

3. In the reply it is stated by the respondents that the applicant was entitled to gratuity and commutation of pension only when the disciplinary proceedings against him were concluded and after dropping the disciplinary proceedings, it was mandatory on the part of the respondents to release the payment of retiral benefits to the applicant, therefore, the applicant was paid gratuity and leave encashment and



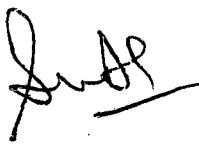
commutation of pension and the applicant is not entitled to any interest as claimed by the applicant.

4. Rejoinder was filed stating that the respondents issued baseless and unwarranted charge sheet to the applicant in order to harass and to with-hold the retiral benefits. It is also stated that the circular dated 10.1.83, also provides payment of interest on delayed payment of retiral benefits. Therefore, the applicant is entitled to interest on delayed payment of gratuity, leave encashment and commutation of pension.

5. Heard the learned counsel for the parties and also perused the whole record.

6. Admittedly, the retiral benefits payable to the applicant on his retirement were with-held due to pending disciplinary proceedings against the applicant and the disciplinary proceedings were concluded on 2.7.97 by which the applicant was exonerated holding that if an opportunity of hearing would have been given to the applicant, then there was no reason to issue the charge sheet. No preliminary enquiry appears to have been conducted before issuance of the charge sheet to the applicant. No opportunity of hearing was given before issuance of such charge sheet whereas only less than a year remained for retirement of the applicant and ultimately no charge could be proved against the applicant rather it was observed by the Enquiry Officer that the charge sheet was baseless and held that if an opportunity to explain/hearing would have been given to the applicant before issuance of charge sheet then it was just possible not to issue the charge sheet after perusal of reply of the applicant.

7. The counsel for the applicant has urged that the charge sheet was baseless and on such baseless charge sheet the respondents would not have with-held the retiral benefits of the applicant and if with-held the applicant is entitled to

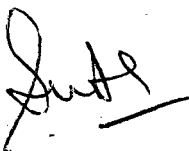


interest after his exoneration from the date of retirement. On the other hand, the learned counsel for the respondents argued that it was mandatory on the part of the respondents to withhold the retiral benefits of the applicant if disciplinary proceedings are pending against him till the disciplinary proceedings are concluded. Therefore, with-holding the retiral benefits in such case is neither unwarranted nor unjustified and the applicant was paid retiral benefits immediately after conclusion of the disciplinary proceedings against the applicant. Therefore, the applicant is not entitled to any interest on the retiral benefits as claimed.

8. We have given anxious consideration to the rival contentions of both the parties and also perused the whole record.

9. In State of Kerala & Ors. Vs. V.M.Padmanathan Nair, 1985(1) SCC 429, Hon'ble Supreme Court held that "Retiral dues like pension, gratuity are no longer any bounty to be distributed by the government to its employees on their retirement. They have become valuable rights in the hands of the retired employees under various decisions of the Supreme Court. Any culpable or unjustified delay in settlement and disbursement of the retiral benefits by the government will make them liable to pay interest on the delayed payments. This view gets support in the case of S.R.Bhanrale Vs. Union of India & Ors, 1997(1) AISLJ 1.

10. In Harbans Singh Viridi & Ors. Vs. State of Punjab & Ors 1999(3) SLJ 262, it was held by Division Bench of the Hon'ble Punjab & Haryana High Court that if the retiral benefits are with-held due to pending disciplinary proceedings and the disciplinary proceedings are concluded in favour of the applicant, the amount wrongly with-held the court can award interest and court has awarded 12% interest to the petitioner



from the year 1980.

10. In the instant case, it becomes abundantly clear from the conclusion of the enquiry that the enquiry initiated against the applicant was baseless. The retiral benefits were with-held only because a disciplinary proceedings against the applicant were pending on the date of retirement. Therefore, according to the settled legal position and facts and circumstances of this case, we are of the considered opinion that the applicant is entitled to interest @ 12% per annum on retiral benefits from 1.6.1993 till the date of actual payment of gratuity, leave encashment and commuted value of pension. In view of the instructions issued by the Govt of Rajasthan it also becomes abundantly clear that the applicant is not entitled to interest from the date of superannuation to the date of payment of gratuity that ~~was~~<sup>is</sup> 3 months only. But the applicant is entitled to interest on delayed payment of leave encashment and commuted value of pension @ 12% per annum from 1.6.1993 till the date of actual payment.

11. In view of the facts and circumstances of the case, the applicant is not entitled to any other relief sought for.

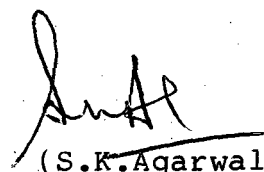
12. We, therefore, allow the O.A and direct the respondents to pay the applicant interest @ 12% per annum on the amount of leave encashment and commutation of pension from 1.6.93 till the date of actual payment. The whole exercise must be completed within a period of 3 months from the date of receipt of a copy of this order.

13. No order as to costs.



(N.P.Nawani)

Member (A).



(S.K.Agarwal)

Member (J).