

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.456/99

Date of order: 10/4/2000

D.R.Marcia, S/o Late Shri Om Marcia, R/o Flat C-2/9, AWHO,
Phase III, Vidya Char Nagar-I, Jaipur, Retired as Principal
Adm Officer.

...Applicant.

Vs.

1. Union of India through the Secretary to the Govt, Mini. of Defence, Govt. of India, New Delhi.
2. The Engineer in Chief, Army Headquarters, Kashmir House, Rajaji Marg, DHQ, New Delhi.
3. The Chief Engineer, HQ Southern Command, Pune.
4. The Chief Controller of Defence Accounts (Pension), Drapadi Ghat, Allahabad.

...Respondents.

Applicant present in person

Mr.Sanjay Pareek - Counsel for respondents.

CORAM:

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

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

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1985, the only prayer of the applicant is for payment of interest @ 24% per annum on the delayed payment of gratuity beyond 3 months on the amount of Rs.1,04,528/-.

2. The admitted facts in this case are that the applicant was superannuated on 31.1.97 from the post of Principal Administrative Officer from the office of Chief Engineer, Southern Command, Pune. The retiral benefits including pension were paid to the applicant in February 1997. Later on Govt. of India accepted the Vth Pay Commission recommendations regarding revision of payscales in Sept. 97. Accordingly, payscale of Govt of India employees was revised w.e.f. 1.1.96. The pay fixation of the applicant was done in February 1998 and arrear of pay was made to him in June 98. It is stated by the applicant that the papers for revising terminal benefits were initiated by the respondents in June 98 after protracted correspondence and the applicant was paid arrear of retiral benefits on 30.10.98. The main grievance of the applicant has been that he has not been paid interest on delayed payment of retiral benefits as per OM No.7/20/89/P&PW(F) dated 22.1.91. The applicant made repeated representations but with no result, therefore, the applicant filed the O.A for the relief as mentioned above.

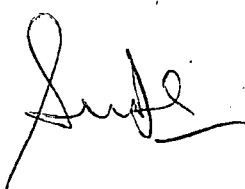
3. Reply was filed. In the reply, it is stated that after revision of payscale of the Govt. of India employees on the basis

of Vth Pay Commission recommendations, arrears in case of retired employees were to be paid after final pay fixation is approved by the audit authorities. The pay fixation of the retired employees including the applicant was initiated vide letter dated 27.11.97, pay fixation was approved by the Delhi Office vide letter dated 19.2.98 and after calculation of arrears, the claim of the retired employees including the applicant was preferred to CDA SC, Pune vide letter dated 7.4.98 who passed the claim on 2.6.98 and payment was made to the applicant in June 98. Thereafter, the claim of the applicant regarding revision of pensionary benefits was forwarded for getting pension/gratuity revised to CCDA (Pension) Allahabad, vide letter dated 6.8.98 and the time taken for finalising the revision of pension/gratuity was due to procedural requirements and was unavoidable. It is also stated that the reply to the representation of the applicant has already sent to him vide letter dated 23.1.99 and accordingly, the applicant is not entitled to any interest as claimed by him and Govt. order dated 22.1.91 are not applicable in the case of revision of pay and pension under RP Rules, 1997. The CCS (RPR) Rules 1997 do not speak for payment of interest on difference of gratuity on account of revision of pay under the revised rules. It is also stated that the applicant has not interpreted the Govt. of India order dated 22.1.91 correctly. Therefore, the applicant is not entitled to any relief sought for and the O.A is devoid of any merit which is liable to be dismissed.

4. Rejoinder was also filed reiterating the facts stated by the applicant in his O.A which is on record.

5. Heard the applicant and the learned counsel for the respondents.

6. The applicant has drawn my attention towards the legal citations D.S.Nakra Vs. UOI, AIR 1983 SC 130, State of Kerala Vs. M.Padmanathan Nair, AIR 1985 SC 356, R.Kapur Vs. Director of Inspection (Printing & Publication) & Anr, Civil Appeal No.6342 of 1994 arising out of SLP(C) 8771 of 94, date of judgment 29.9.94, Union of India Vs. Justice S.S.Sandhawalia (1994) 2 SCC 240, Bhagwati Mantani Vs. UOI, 1995(Supp)(1) 145 SC, Shesh Narain Srivastava Vs. UOI & Ors, CAT Lucknow, SLJ 1998(2) 300 has also referred the order passed by the Ahmedabad Bench of the Tribunal in O.A No.463/98 decided on 3.9.98 and CM No.38/64/98-P&PW(F) dated 5.10.99 stating that the applicant is entitled to interest on delayed payment of gratuity. On the other hand, the learned counsel for the respondents has argued that there had been no lapse or culpable negligence on the part of the respondents so as to justify the claim of interest made by the applicant and the legal citations



and OM dated 22.1.91 and OM dated 5.10.99 have no application in the instant case.

7. I gave anxious consideration to the rival contentions of both the parties and perused the whole record.

8. It is an admitted fact that the applicant after superannuation on 31.1.97, received the payment of all retiral benefits including pension in the month of February 97, hence there is no delay in payment of retiral benefits paid to him on his superannuation.

9. As regards the payment of arrear of gratuity payable to the applicant on revision of pay scale, it is also an admitted fact that the orders regarding implementation of Vth Pay Commission recommendations were issued by Govt. of India in September 1997, thereafter the process of payment of arrear of pay is expected to be started. It has been stated in the reply that the payment of arrear in case of retired employees were to be paid only after final pay fixation is approved by the audit authorities. The pay fixation of the retired employees including the applicant was initiated by the respondents vide letter dated 27.11.97 and the pay fixation was approved by the Delhi office vide letter dated 19.2.98. Thereafter, calculation of arrear claim of the retired employees including the applicant was preferred to CDA(SC) Pune vide letter dated 7.4.98 who passed the claim on 2.6.98 and payment was made to the applicant in June 98. The applicant only claims that he received the payment of arrear of gratuity late, beyond the period of 3 months, therefore, he is entitled to interest as per the aforesaid OM dated 22.1.91. It appears that the OM dated 22.1.91 issued for payment of interest on delayed payment of gratuity beyond 3 months on various grounds, the relevant portions are extracted as below:

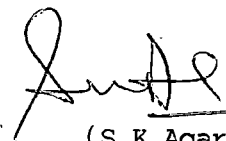
"At present, no interest is paid in such cases. Representations have been received that the payment of difference in gratuity in such cases is unduly delayed. It is expected that once the orders relating to revision of emoluments reckoning for gratuity or liberalisation of rules relating to entitlement of gratuity is issued, the difference in gratuity should be paid within a reasonable time. Taking into account all aspect, it has now been decided that if the payment on account of arrears of gratuity is delayed beyond a period of three months from the date of issue of the orders revising the emoluments/liberalisation in the rules interest may be allowed for the delay beyond the period of three months of the date of issue of the said orders."

10. It has been made very clear in the reply by the respondents that the time taken for finalisation of the revision of pension/gratuity is due to following the procedural requirement and

the same was unavoidable, considering the Stations where various authorities are located. It is also stated in the reply that "RPR-97 effect was to be implemented for entire MES Organisation officers retired/died during the period 1.1.96 to 31.10.97 and cases requiring revision were very high in number, it was a very labourious task before authorities in the chain i.e. office from where the officer retired who has to submit the details to CRO(O) Delhi Cantt. The pension revision initiating authority to (i.e. CRO(O) Delhi) to forward documents to pay account office i.e. CDA SC Pune to verify the pay details/data sheets and then submit the case to CCDA (Pensions) Allahabad. All above authorities have acted on the issue of revision cases as speedily as possible with the existing limited staff available with them for this voluminous task in addition to the normal work load". It was further explained in the reply that the "time taken to reach the claim to CCDA (Pensions) Allahabad after actual initiation of claim is justifiable due to the various offices in the chain are scattered such as CESC Pune to CRO(O) Delhi Cantt to CDA SC Pune and CDA SC Pune to CCDA (Pensions) Allahabad. Accordingly, CCDA (Pensions) Allahabad issued the revised pensionary award by end of September, 98 and it was received in the office of CESC during October, 98 and it was forwarded to the Bankers of the petitioner immediately for payment. The action required to be taken from the date of receipt of officer till issue of revised pension payment order by CCDA(P) Allahabad is clearly explained above. It was minimum initial time taken for processing the case due to long channel involved in finalisation of the case and it was not a wilful delay on the part of the respondents."

11. On the basis of the above explanation given in the reply, I am of the considered view that there is no culpable negligence on the part of the respondents in making the payment of arrear of gratuity to the applicant and Govt of India order dated 22.1.91 are not applicable in the case of revision of pay and pension under RPR, 1997. Not only this, CCS(PR) Rules, 97 do not speak regarding payment of interest on difference of gratuity on account of revision of pay under the revised rules. The legal citations as referred by the applicant in his rejoinder and at the time of hearing do not help the applicant so as to make out his case for the claim of interest.

12. I, therefore, find no merit in this O.A and the same is dismissed with no order as to costs.


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