

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR
O.A.No.475/2000 Date of order: 17/8/2001

Madan Lal Gehlot, S/o Sh.Bhanwar Lal Gehlot, R/o
House No.530, Jailal Munshi ka Rasta, Chandpole
Bazar, Retd.Technical Supervisor, O/o PGMTD, Jaipur.
...Applicant.

Vs.

1. Union of India through Secretary to the Govt of India, Deptt.of Telecom, Sanchar Bhawan, New Delhi.
2. Chief General Manager, Rajasthan Circle, Jaipur.
3. Principal General Manager, Telecom, Jaipur District, Jaipur.

...Respondents.

Mr.P.N.Jati : Counsel for applicant

Mr.Sanjay Pareek) : for respondents.

Mr.P.C.Sharma)

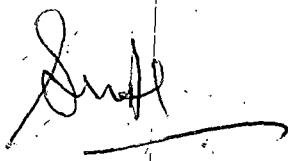
CORAM:

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

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

In this O.A filed under Sec.19 of the ATs Act, 1985, the applicant makes a prayer to direct the respondents to pay interest @ 18% per annum on the retiral benefits - gratuity and commutation, Rs.9463/- w.e.f. 1.10.97 to 31.3.2000.

2. In brief the case of the applicant is that while working as Technician in Telecom Department, the applicant retired on 30.9.97 but he was paid less Rs.4191 for gratuity and Rs.5272 for commutation and in this way Rs.9463/- was with-held while making payment of the retiral benefits. It is stated that this amount of retiral benefits Rs.9463 as gratuity and commutation was paid to the applicant on



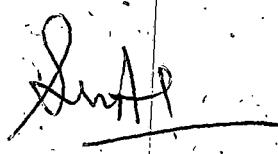
1.4.2000 in pursuance of the order dated 27.3.2000. It is stated that with-holding of the amount of gratuity and commutation was arbitrary and unjustified, therefore, the applicant is entitled to interest on the delayed payment.

3. Reply was filed. It is stated that the applicant was erroneously promoted w.e.f. 20.6.93 vide order dated 29.12.93 as inadvertently it was submitted before the DPC that no enquiry is pending against the applicant where as disciplinary case was pending against the applicant. It is stated that penalty of with-holding of one grade increment without cumulative effect was imposed upon the applicant vide order dated 28.2.96 and in appeal the penalty of with-holding of one grade increment was reduced to Censure vide order dated 18.7.96 and revision was dismissed on 20.1.98. It is stated that the case of the applicant was again reviewed and on the recommendation of the review DPC, the applicant was promoted w.e.f. 20.6.93 vide order dated 9.2.2000. Therefore, Rs.4191 + Rs.5272 = 9463 was paid to the applicant on 1.4.2000 and there has not been any culpable negligence/delay on the part of the respondents. Therefore, the applicant is not entitled to any interest.

4. Rejoinder has also been filed stating that no enquiry of any kind was pending against the applicant before the date of his promotion.

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

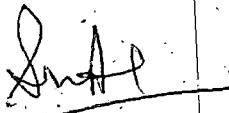
6. Admittedly, the applicant was retired on 30.9.97 and he was entitled to all the retiral benefits after his retirement. On a perusal of the averments made by the parties, it appears that no order of reversion has been issued by the respondents for reverting the applicant/with-



drawing the order of promotion dated 29.12.93. No opportunity of hearing/show cause appears to have been issued to the applicant before reaching the conclusion that the applicant was promoted erroneously although in a disciplinary proceedings against the applicant, a penalty of stoppage of one increment was imposed vide order dated 28.2.96 which was reduced to Censure in appeal vide order dated 18.7.96 but it does not mean that the charge-sheet was pending against the applicant on 20.6.93, the date from which the applicant was promoted. Therefore, withholding Rs.9463/- from gratuity & commutation payable to the applicant after retirement of the applicant, appears to be altogether arbitrary and against the principles of natural justice. It was the duty of the department to pay retiral benefits to the applicant in time and any culpable delay on the part of the respondents can make them liable to pay interest.

7. Retiral dues like pension, gratuity, commutation, etc. are no longer any bounty to be distributed by the government to its employees on their retirement but they have become valuable rights in the hands of retired employees under various decisions of the Supreme Court and 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. The aforesaid view has been taken by the Hon'ble Supreme Court in State of Kerala & Ors Vs. V.M.Padmanabhan Nair, 1985(1) SCC 429 and this view gets support in the case of S.R.Bhanrale Vs. Union of India & Ors, 1997(1) AISLJ 1.

8. In Harbans Singh Virdi & Ors Vs. State of Punjab & Ors, 1999(3) SLJ 262, it was held by Division Bench of the

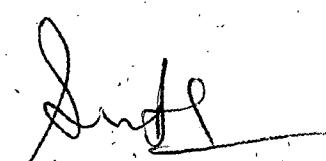


Punjab & Haryana High Court that if the retiral benefits are with-held due to pending disciplinary proceedings and the disciplinary proceedings are concluded in favour of the applicant, the amount wrongly with-held the court can award interest.

9. In the instant case, it becomes abundantly clear that no order of reversion/withdrawing the promotion of the applicant appears to have been issued, therefore, without any order of reversion, with-holding of the amount of gratuity, and commutation was without any basis. Moreover, from the pleadings of the parties, it could not be established that on the date of promotion, i.e. on 20.6.93, some enquiry was pending against the applicant and if that enquiry was pending, why it was not taken into consideration by the DPC. No opportunity of hearing appears to have been given to the applicant, before taking a decision to revert the applicant and with-holding of retiral dues of the applicant and ultimately, it appears that these retiral dues were released to the applicant on 1.4.2000. In my considered view, under the facts and circumstances of this case, there was culpable negligence on the part of the respondents' department in with-holding the retiral dues of Rs.9463/- payable to the applicant and the applicant is entitled to interest after 3 months of his superannuation till the amount paid to the applicant.

10. I, therefore, allow this O.A and direct the respondents to pay interest @ 12% per annum to the applicant on Rs.9463/- (amount of gratuity & commutation with-held) w.e.f. 1.1.98 to 31.3.2000 within 3 months from the date of receipt of a copy of this order.

11. No order as to costs.


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