

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR
O.A.No.73/2001 Date of order: 8/1/2002
A.P.Agarwal, S/o Sh.Babu Lal, C/o M/s Anand
Prakashan, 305 Lalji Sand ka Rasta, Jaipur.

...Applicant.

Vs.

1. Union of India through Secretary, Mini.of Defence,
Raksha Bhawan, New Delhi.
2. Chief Controller of Defence Accounts (Pension)
Allahabad (UP).
3. Controller of Defence Accounts (Army) Meerut (U.P.).
4. Garrison Engineer (MES) Roorkee Cantt, Roorkee (U.P)

...Respondents.

Mr.C.B.Sharma : Counsel for applicant

Mr.R.L.Agrawal, proxy of Mr.Bhanwar Bagri, for respondents.

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 claims interest on the difference of amount paid to him as under:

| S.No. | Retiral Benefits | Amount due on 31.3.98 | Part amount | Difference |
|-------|---------------------------------|--------------------------|-------------------|-------------------------|
| | | | paid on 1.6.98 | amount paid 9.5.2001 |
| 1. | Retirement Gratuity | 181830 | 101579 | 80251 |
| 2. | Capatilised value of pension | 195812 | 64267 | 131545 |
| 3. | Leave encashment | 82828 | - | 82828 |

(Paid on 30.3.99)

2. The case of the applicant is that the payment was delayed due to intentional and deliberate lapses on the part

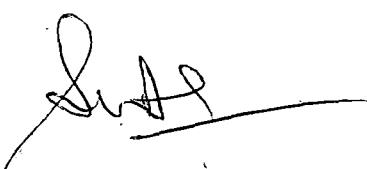


of the respondents. Therefore, the applicant is entitled to interest on the delayed payment of retiral benefits. It is stated that the 5th Pay Commission's report was accepted and order@# for its implementation were issued in the month of October 1997 hence the respondents could have easily revised the pension and other retiral benefits due to him even before his retirement i.e. on 31.3.98. It is stated that the applicant submitted his representation in view of the order dated 24.8.2000 passed by this Tribunal in O.A No.368/2000 which was decided in 5 months period and the respondents took about 3 years time in making the payment of revised retiral benefits to the applicant and one year time for making the payment of leave encashment which was unreasonable and unjustified. Therefore, the respondents department is liable to pay the interest. Therefore, the O.A has been filed for the relief as above.

3. Reply was filed. In the reply it is stated that the applicant has already been paid the revised retiral benefits including leave encashment and there has not been any lapses on the part of the respondents in making payment of revised retiral benefits. It is stated that the delay was caused because the applicant was granted promotion just before 42 days of his retirement and in view of the revision of pay scales as recommended by 5th Pay Commission. Thus, the applicant has no case.

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

5. In case of employee retiring after having rendered service it is expected from the Govt department that all the payment of his retiral benefits should be paid to him as

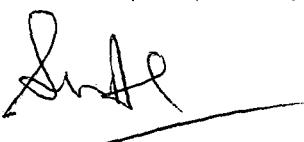


early as possible and if due to some unforeseen circumstances, the payment could not be made that should be properly explained. If there is a lapses on the part of the department to make the payment of retiral benefits, the applicant is entitled to interest.

6. In State of Kerala & Ors Vs. V.M.Padmanabhan 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(A) AISLJ 1.

7. In Sri Satish Bhandari Vs. UOI & Ors, 2001(3) ATJ 61, Calcutta Bench of the Tribunal held that if there has not been proper explanation of delay for making the payment of retiral benefits, the applicant is entitled to interest.

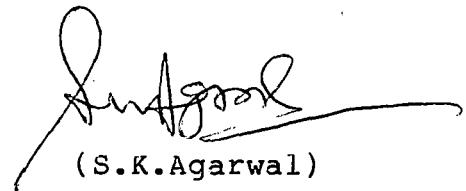
8. In the instant case, the applicant retired on 31.3.98 and he was paid his pre-revised retiral benefits on 1.6.98 but after revision of pay scale as per 5th Pay Commission he could get the payment of defference of his retiral benefits on the dates as mentioned in Anxx.A8. It is not understood why the respondents' department took about 3 years in making the payment of retirement gratuity and Capatilised value of pension for which no reasonable and probable explanation could be furnished by the respondents. No lapses on the part of the applicant could be established which can be a cause for delaying the retiral benefits. The recommendations of the 5th Pay Commission were accepted



in October 1997 and orders were issued for its implementation accordingly, therefore, making payment of balance retiral benefits as per the revision of pay scale, after 3 years appears to be unreasonable and unjustified for which no proper explanation could be furnished by the respondents' department. Therefore, in my considered opinion, the payment was delayed on account of lapses on the part of the respondents' department and thus the respondent department is liable to pay interest on the amount so delayed. As per the decisions given from time to time, the applicant is entitled to interest @ 12% per annum for the delayed payment of retiral benefits and leave encashment.

9. I, therefore, allow this O.A and direct the respondents to pay the applicant interest @ 12% per annum on retirement gratuity, capatilised value of pension and leave encashment w.e.f. 1.6.1998 till it was paid to the applicant.

10. No order as to costs.



(S.K. Agarwal)

Member (J).