

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

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Date of Order : 14.5.2003

O.A. NO. 530/2002

Girraj Prasad Sharma S/o Late Shri Gyasi Ram, aged about 61 years, resident of Thandi Sarak, Nadia Mohalla, Bharatpur. Voluntary retired from the post of Postal Assistant (HSG-II) on 5.1.2001, Bharatpur Head Post Office.

.....Applicant.

versus

1. Union of India through its Secretary to the Government of India, Department of Posts, Ministry of Communication, Dak Bhawan, New Delhi - 110 001.
2. Chief Post Master General, Rajasthan Circle, Jaipur - 302 007.
3. Superintendent of Post Offices, Bharatpur Postal Division, Bharatpur.

.....Respondents.

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CORAM :

Hon'ble Mr. Justice G.L. Gupta, Vice Chairman

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Mr. C.B. Sharma, counsel for the applicant.

Mr. B.N. Sandu, counsel for the respondents.

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ORDER

BY THE COURT :

The following reliefs have been claimed by the applicant in the instant O.A. :-

- "(i) that the respondents may be directed to release Pension Payment Order for full Pension and amount of gratuity and commutation along with interest @ 18% p.a. with effect from 1.2.2001 till payment,
- (ii) the respondents may be further directed not to recover any amount from the applicant in pursuance to letter dated 2.11.2002 (Annexure A/1) and the same may be quashed and set aside with all consequential benefits,
- (iii) any other order, direction or relief may be passed in favour of the applicant which may be deemed fit, just and proper under the facts and circumstances of the case,
- (iv) that the costs of this application may be awarded."

2. The admitted facts of the case are these. Applicant was, working as Sub Post Master at Anahgate, Bharatpur Sub Post Office, in the years 1996-97. He made payment of Kisan Vikas Patras valued at Rs. 30,200/- on 12.7.1996 and 22.7.1997 to the holder. However, it was detected that payment of the Kishan Vias Patras was not made by the applicant to the correct person. He was, therefore, served with a Chargesheet on 11.8.1999 for imposing minor penalty. On the conclusion of the inquiry, he was found guilty and a penalty of reduction of three stages in his pay, was imposed vide order dated 30.9.1999. Thereafter, the applicant made an application seeking voluntary retirement in October, 2000. His application was accepted and he stood retired on 5.1.2001. Provisional pension was sanctioned to him vide order dated 8.5.2001. He was getting provisional pension but, gratuity was not released to him. The applicant received communication dated 2.11.2002 directing him to make payment of Rs. 30,200/- as the Department had suffered loss because of wrong payment made by him. The applicant has filed this O.A. challenging the



communication Annexure A/l. He also seeks directions to release full pension, gratuity and commutation.

2.1. It is averred that the action of the respondents in not releasing the Pension Payment Order for full pension and gratuity, is erroneous, unjustified and arbitrary and that the applicant has already been punished in the disciplinary proceedings and he cannot be punished twice.

3. In the counter, the respondents have come out with the case that the applicant made payment of Kishan Vikas Patras to the wrong person. It is averred that a police report was lodged but the police did not file challan, and instead, submitted final report. It is stated that the F.S.L. report has been received which goes to prove that the Kishan Vikas Patras Vouchers did not bear the signatures of holder Shri Radha Kishan and thus, the applicant was at fault in making the payment. It is further stated that now, all the payments have been released to the applicant on 1.3.2003 and 10.3.2003.

4. I have heard the learned counsel for the parties and perused the documents placed on record.

5. It was not denied by the learned counsel for the applicant that payments of gratuity and all retiral benefits, have been made to the applicant on 1.3.2003 and 10.3.2003.

6. Two questions arise for determination in this matter. One, whether, respondents have faulted in issuing letter Annexure A/l to the applicant. Two, whether the applicant is entitled to interest for the delayed payment of retiral benefits.

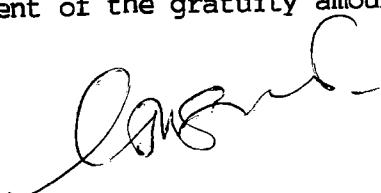
7. As to the first question, it is seen that this letter has



been issued after the retirement of the applicant. Admittedly, no departmental inquiry was pending against the applicant on the date of his retirement. It is not the case for the respondents that the order Annexure A/1 has been passed under Rule 9 of the CCS (Pension) Rules. It is also not the case for the respondents that a show cause notice was issued to the applicant before issuing the order Annexure A/1. The order/letter Annexure A/1, therefore, is not sustainable and is liable to be quashed.

8. As to the second question, it is seen that the gratuity amount was withheld by the respondents on the ground that a criminal case was pending against the applicant. However, the communication Annexure R/3 dated 17.2.2003, issued by the Post Master General, indicates that no criminal case was pending in terms of Rule 9 (6) (b) (i) of the CCS (Pension) Rules against the applicant and there was fault on the part of the Superintendent of Post Offices, Bharatpur, when he did not make payment of the gratuity to the applicant in time. Since from the letter Annexure R/3 issued by the respondent No. 2 itself, it is borne out that no criminal proceedings were pending against the applicant on the date of his retirement and even after that it has to be accepted that the delay caused in making payment of gratuity amount was without sufficient cause, much less than the applicant was responsible in any manner. The applicant is, therefore, entitled to interest on the delayed payment of gratuity under Rule 68 of the CCS (Pension) Rules.

8.1. The applicant had not retired on attaining superannuation. The retirement had taken place at his own request and, therefore, the applicant is entitled to interest from the date six months beyond the date of his retirement. It is just and proper that the applicant is allowed interest at the rate of 10% p.a. from 5.7.2001 to the date of payment of the gratuity amount.

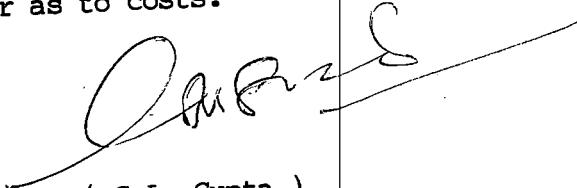


8.2 The applicant was getting provisional pension. Therefore, he did not suffer in so far as the amount of pension is concerned. He is not entitled to interest on the pension amount.

8.3 Since the applicant was getting provisional pension only, there could not be the commutation of pension. He is not entitled to interest on the commuted value of pension.

9. Consequently, the O.A. is allowed in part. The order/letter Annexure A/l is hereby quashed. The respondents are directed to pay interest at the rate of 10% p.a. on the amount of gratuity from 5.7.2001 till the date of payment.

10. No order as to costs.


(G.L. Gupta)
Vice Chairman

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