

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,
JAIPUR

Dated of order: 21.07.2003

OA No.321/2003

Dr. M.P.Bhatnagar s/o late Shri K.P.Bhatnagar, retired Professor, Permanent r/o Sachi Niwas C-1611, Rajaji Puram, Lucknow, presently residing at Pink House, Collectorate Circle, Bani Park, Jaipur.

.. Applicant

Versus

1. Union of India through the Chairman/Secretary, National Council of Education, Research and Training (NCERT), Shri Aurobindo Marg, New Delhi.

.. Respondent

Mr. Jitendra Mitruka - counsel for the applicant

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDICIAL)

O R D E R (ORAL)

Per Hon'ble Mr. M.L.Chauhan

The applicant, who was employee of National Council of Education, Research and Training (NCERT), retired on superannuation on 30.6.1988. After retirement, he was further appointed as Professor by the NCERT vide order dated 25.4.1990 retrospectively w.e.f. 1.1.1988 to 30.8.88 (Ann.A-1/5). The case of the applicant is that he received salary of Professor alongwith arrears of pay and consequently on account of such fixation, he was paid salary of Professor alongwith arrears of pay. However, payment of pension and gratuity as Professor was received by him on 26.4.2000, As can be seen from letter dated 26.4.2000 (Ann.A-1/7) vide which Bank Draft dated 25.4.2000 amounting to Rs. 1,04,133 was enclosed. The applicant has contended that because of unusual delay of

about 10 years in making payment of pension and gratuity, he is entitled to interest to the tune of Rs. 17,905 for the period calculated from 1.9.90 to 30.12.95 i.e. for 64 months and additional claim from 1.7.2000 to 24.4.03 for more than 33 months and in all the sum of Rs. 27,359/-. The applicant submitted a representation in this behalf on 19.6.2000 (Ann-A 1/8) and thereafter number of representations were also sent to the Department, but no reply or action was ever taken by the respondents and as such he has filed the present OA thereby praying that simple interest for the delayed payment after 10 years by the NCERT may be granted to him as per law laid down by the Hon'ble Supreme Court.

2. On the facts as stated above, it is evident that the applicant was promoted as Professor with retrospective effect from 1.1.1988 after his retirement, vide order dated 25.4.90. However, the applicant was granted arrears on account of salary on his promotion as Professor vide order dated 7.8.90 but payment of arrears of pension and gratuity as Professor was only granted to him in April, 2000 when Bank Draft No.372963 dated 25.4.2000 amounting to Rs. 1,04,133 on account of arrears of pension from 1.7.88 to 31.3.2000 was enclosed to him vide letter dated 26.4.2000 (Ann-A 1/7). Thus, the cause of action in favour of the applicant has arisen in the year 1990 when he was granted arrears of salary on account of refixation of his pay on promotion to the post of Professor and in any case on 25.4.2000 when the sum of Rs. 1,04,133 on account of arrears of pension from 1.7.88 to 31.3.2000 was enclosed to him. The applicant had also made representation which was rejected vide order dated September 12/13, 2001 (Ann-

A-1/2) on the ground that there is no delay on the part of the Council and hence interest on payment of revised pension on promotion as Professor after 10 years, does not arise. From the material placed on record, it appears that the applicant continued to make representations and lastly he was informed vide letter dated 10/26.3.03 (Ann-A-1/3) that he is not entitled for payment of simple interest at the rate of 18% on payment of revised pension consequent upon his promotion as Professor in NCERT as the matter has already been examined in detail and the reply in this behalf has already been sent vide letter dated 13.9.2001.

3. Admittedly, the present application is time barred under Section 21 of the Administrative Tribunals Act, 1985. The applicant has not filed any application for condonation of delay. As regards limitation, in para 3, the applicant stated as under:-

"The applicant further declares that applicant is within limitation period as the N.C.E.R.T. has finally informed on 20.6.2003 that there is no delay (Annexure-A-1/3) as prescribed in Section 21 of the Act, of 1985."

3.1 As already stated above, the application is clearly time barred as the same has been filed beyond the period prescribed under Section 21(1) of the Administrative Tribunals Act. The letter dated 26.3.03 does not extend the period of limitation as vide this letter the applicant has been informed that his request for grant of interest stands already rejected and he has been informed vide letter dated 13.9.01 (Ann-A-1/2). Despite this fact, the applicant did not file any application for condonation of delay. Section 21(3) of the

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Administrative Tribunals Act gives power to the Tribunal to condon the delay if sufficient reason is given. Section 21 of the Act reads as under:-

"21. Limitation- (1) A Tribunal shall not admit an application-

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) xxx xxx xxx

3. Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period."

3.2 Thus from the provisions as quoted above, it is quite clear that the cause of action arose in favour of the applicant firstly in the year 1990 when he was paid

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arrears of pay vide letter dated 28.7.90, but no such arrears were paid to him on account of pension. Secondly, the cause of action also arose in favour of the applicant on 26.4.2000 when Bank Draft dated 25.4.2000 amounting to Rs. 1,04,133 on account of arrears of pension from 1.7.88 to 31.3.2000 was enclosed to him. As per Section 21(1)(a), the applicant could have filed the application in connection with this grievance within one year from 26.4.2000. Further, the cause of action arose on 13.9.2001 when his representation regarding grant of interest was rejected and he could have filed the application within one year from the date of this final order. However, this application has been filed by the applicant only on 14.7.03, as such, it is clearly time barred. Further, the applicant has not filed any application for condonation of delay. In the absence of any application for condonation of delay under Sub-section (3) of Section 21 praying for condonation of delay, the Tribunal has no jurisdiction to admit and dispose of the OA on merits. Thus, I am of the view that such application cannot be entertained and disposed of on merits in view of the statutory provisions contained under Section 21(1) of the Administrative Tribunals Act, 1985. This is the view taken by the Apex Court in the case of Ramesh Chandra Sharma vs. Udhav Singh Karal and ors., 2000 SCC (L&S) 53. Further contention of the learned counsel for the applicant ~~is~~^{is} that the application is within limitation in view of the letter dated 20.6.03 (Ann.A-1/3) cannot be accepted as this letter only intimates his request for grant of interest on delayed payment of pension which has already been rejected and the intimation in this regard has been given to the applicant on 12/13.9.01. Thus, the repeated representations

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will not extend the period of limitation.

4. For the reasons stated above, the OA is dismissed at the admission stage being time barred. No order as to costs.



(M.L. CHAUHAN)

Member (Judicial)