

Central Administrative Tribunal
Jabalpur Bench

OA No.993/04

Jabalpur, this the 4th day of July, 2005.

C O R A M

Hon'ble Mr. Madan Mohan, Judicial Member

Tarkeshwar Prasad Dbey
S/o late M.D.Dubey
Retired Foreman
Gun Carriage Factory
Jabalpur.
R/o House No.20/LIG
M.P.Housing Board Colony
South Civil Lines
Jabalpur.

Applicant

(By advocate Shri K.Datta)

Versus

1. Union of India through the
Secretary
Department of Defence Production
Government of India
New Delhi.
 2. The Chairman
Ordnance Factory Board
Ministry of Defence
Government of India
10-A, Shaheed Khudiram Bose Road
Kolkata.
 3. The Chief Controller of Defence Accounts
Office of C.D.A. (Pension)
Saraswati Ghat
Allahabad.
- Respondents.

(By advocate None)

ORDER



By Madan Mohan, Judicial Member

By filing this OA, the applicant has sought the following reliefs:

- (i) To direct the respondents to allow 12% interest on arrears of pension from 1.7.1992 till date of payment.
- (ii) To direct the respondents to pay 10% interest on gratuity from 1.7.92 till date of payment.
- (iii) To direct respondents to pay 12% interest on commuted value of pension from 1.7.92 till date of payment.

2. The brief facts of the case are that the applicant who was working as Foreman in Gun Carriage Factory, Jabalpur, was put under suspension, pending some criminal proceedings against him, on 8.6.1992 just before his due date of retirement on 30.6.92. As per rules, respondent No.2 should have sanctioned provisional pension and gratuity to the applicant, which was not done. After the acquittal of the applicant in criminal appeal No.1186/96 on 9.10.2002 by the High Court of Madhya Pradesh, the respondents passed an order dated 17.4.2003 for payment of final pension and arrears of pension from 1.7.92. Interest on arrears of pension, delayed payment of gratuity and commutation of pension has not been paid to the applicant, in spite of representations made in that behalf. Aggrieved by the non-payment of interest on arrears of pension, delayed payment of gratuity and commutation of pension, the applicant has filed this OA.

3. Heard the learned counsel for the applicant. None is present for the respondents. Hence the provisions of Rule 16 of the CAT (Procedure) Rules, 1987 are invoked.


4. Learned counsel for the applicant argued that withholding of pension and pensionary benefits and non-sanctioning of provisional pension as per Rule 69 of the CCS (Pension) Rules, 1972 was wrong. The respondents were liable to pay interest at the rate of 12% p.a. on the arrears of pension and commuted value of pension. The respondents were liable to pay interest at the rate of 10% on the



delayed payment of gratuity from the due date i.e. 1.7.192 till the date of actual payment. Learned counsel for applicant has drawn my attention to Rule 62 of the CCS (Pension) Rules and argued that the respondents should have intimated the concerned authority about the suspension of the applicant, but they did not do so. He has further drawn my attention to Rule 68, which provides for interest on delayed payment of gratuity. My attention is also invited to a decision of the Government of India, in which it is provided that if a Government servant is fully exonerated from criminal proceedings, then he is entitled for interest on delayed payment of DCRG, which is deemed to have fallen due from the date following the date of retirement.

5. The respondents in their reply contend that the applicant's terminal benefits were sanctioned a month prior to his retirement by the PCDAP Allahabad through PPO dated 20.3.92. As a sequel to the deemed suspension of the applicant, the same was not released as per the CCS (Pension) Rules, 1972. However, under Rule 69 (a) of CCS (Pension) Rules, provisional pension was authorized. Despite repeated directives, the applicant did not sign the provisional pension papers and he did not even bother to intimate the department about the status of his criminal case pending against him, for about a decade. The applicant was convicted for 7 years imprisonment. Had the fact of conviction been known the disciplinary authority, the disciplinary authority would have taken action under Rule 9 of CCS (Pension) Rules as the offence involved moral turpitude. Under the circumstances, the relief prayed by the applicant for interest on delayed payment was inadmissible by any stretch of imagination.

6. After hearing the learned counsel for the applicant and carefully perusing the records, I find that the applicant was placed under suspension on 8.6.1992 and he retired on superannuation on 30.6.92. He was acquitted by the High Court in the year 2002. I have perused the judgment passed by the Hon'ble High court of M.P. in the



criminal appeal No.1186/96, in which the applicant is acquitted of the charges under Section 304-B of the Indian Penal Code. I have also perused the Government of India's Decision (page 22 of the OA).

Para 3 of Rule 68 of CCS (Pension) Rules reads as follows:

"3. In order to mitigate the hardship to the Government servants who, on the conclusion of the proceedings are fully exonerated, it has been decided that the interest on delayed payment of DCRG may also be allowed in their cases, in accordance with the aforesaid instructions. In other words, in such cases, the gratuity will be deemed to have fallen due on the date following the date of retirement for the purpose of payment of interest on delayed payment of gratuity....."

7. Considering all facts and circumstances of the case, I am of the considered opinion that the OA is liable to succeed. Hence the OA is allowed. Respondents are directed to consider the claim of the applicant within a period of four months from the date of receipt of a copy of this order strictly in accordance with rules, and pass a speaking and reasoned order. Applicant is directed to furnish a copy of the OA and relevant documents to the respondents immediately. No costs.



(Madan Mohan)
Judicial member

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पृष्ठान्कन सं ओ/व्या.....जबलपुर, दि.....

पतिलिपि अयो निम्न:-

- (1) सचिव, उच्च न्यायालय, जबलपुर
- (2) आवेदन प्रीति/प्रीति/प्रीति.....को काउंसल
- (3) प्रत्यक्षी प्रीति/प्रीति/प्रीति.....को काउंसल
- (4) वरिष्ठ न्यायाधीश, उच्च न्यायालय, जबलपुर

सचिव एवं उच्च न्यायालय, जबलपुर

K. Dutta Pr 238
B. Singh Pr 237

Filed
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जबलपुर
उच्च न्यायालय