

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 781 of 2004

Indore, this the 19th day of October, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

G.D. Tiwari, S/o. late Shri K.L. Tiwari,
Age 61 yrs., Conservator of Forests,
IFS (Retd.), Matra Chhaya Shankar Chowk,
Lalitpur Colony, Lakshar, Gwalior (MP). Applicant

(By Advocate – Smt. S. Mandloi)

V e r s u s

1. The Union of India, through the Secretary, Environment & Forest, CGO Complex, Lodhi Road, New Delhi.
2. The State of Madhya Pradesh, Through the Principal Secretary Forest, Bhopal (MP).
3. The Principal Chief Conservator of Forests, Madhya Pradesh, Satpura Bhawan, Bhopal (MP).
4. The Accountant General, Madhya Pradesh, Gwalior (MP). Respondents

(By Advocate – Shri Gaurav Samadiya on behalf of Shri V.K. Sharma)

O R D E R

By Madan Mohan, Judicial Member -

By filing this Original Application the applicant has claimed the following main relief :

“8.1 to issue directions to the respondents to calculate and make payment of gratuity, family benefit fund, group insurance, leave salary, commutation amount etc. to the applicant,



8.2 to issue directions to the respondents to pay interest at 24% on the amount of said retiral claims for the period from 1.9.2003 till the date actual payment."

2. The brief facts of the case are that the applicant retired from Government service on 31.8.2003, when he was holding the post of Conservator of Forest. He was initially appointed on the post of Assistant Conservator of Forests (State Service) by direct recruitment on 1.4.1969 and was selected for the Indian Forest Service cadre post in 1984 and a given the year of allotment as 1981 as per recruitment rules. The applicant was last posted in the office of respondent No. 3 and was sent on the deputation post of Conservator of Forests, Western Coalfields Ltd. Civil Lines, Nagpur. After his retirement he is entitled to get the pension and retiral claim amounts as per the All India Service Death cum Retirement Rules, 1958 (Pension Rules) and Commutation of Pension Rules, 1959. The directions in the Rule 19-A of the Pension Rules are very clear that if the payment of gratuity and other retiral claim amounts is not made within a period of 3 months the employee shall be entitled to interest. The due date of payment of the retiral claims is the last date of working as directed in rule 16 of the pension rules. In the instant case the applicant is entitled to get payment of the gratuity and other retiral dues on 31.8.2003. No payments of any of the retiral claim amounts including the amount of gratuity have been made to the applicant till this date. The adhoc amount of monthly pension Rs. 8965/- per month has been fixed vide order dated 13.10.2003 and this amount the applicant is getting every month as pension for his maintenance. The respondents have not given any reason for non release of the gratuity and other retiral claim amounts of the applicant and have arbitrarily kept withheld all the payments since more than one year of retirement. There was no enquiry or case pending against the applicant when he retired from the service on 31.8.2003. The applicant submitted his representation to the respondents stating all the facts but no action has been taken. Hence, this Original Application is filed.



3. Heard the learned counsel for the parties and carefully perused the pleadings and records.

4. It is argued on behalf of the applicant that the applicant retired on 31.8.2003 and by order dated 13.10.2003 the respondents have only paid the adhoc monthly pension of Rs. 8965/- . They have not shown any reason as to why the other amounts of retiral dues are not paid by them, while the respondents are bound to pay all the retiral dues after three months of retirement of the employee, otherwise the employee shall be entitled to get the interest thereon. The learned counsel for the applicant has submitted a letter of April, 2000 which is issued from the Forest Department of Madhya Pradesh Government to the Deputy Inspector General, State Economic Offence Investigation Bureau, Bhopal, wherein it is mentioned that decision was taken by the State Government not to accord sanction for prosecution under Section 197 against the applicant. Even then the respondents have not paid the due amounts to the applicant. Hence, the applicant is entitled for the reliefs claimed by him.

5. In reply the learned counsel for the respondents Nos. 2 & 3 argued that a prosecution was launched against the applicant in the year 1995 under Crime No. 34/95 and 35/95 and at the time of his retirement i.e. on 31.8.2003 the same was pending and therefore the entire retiral dues were not settled in favour of the applicant. A complaint case was registered against the applicant by the Lokayukta and the same was also pending against the applicant at the time of retirement on 31.8.2003. The cases were dropped on 14.7.2004 and 28.12.2004 as will be evident from the orders filed as Annexures R-1 and R-2. It was only after the exoneration that the retiral dues were settled in favour of the applicant. The applicant has concealed these facts in the OA. The applicant is not entitled for the settlement dues under the rules because of the pending of criminal cases. So far as the gratuity payment of the applicant is concerned the State of Madhya Pradesh in the Forest Department passed adhoc orders on



10.5.2005 in this behalf for payment of Rs. 3,49,472/- to the applicant deducting Rs. 528/- towards interest payment on the vehicle loan. Hence, total amount of gratuity was sanctioned to be Rs. 3.50 Lacs. On 16.5.2005 the payment of the said sum was made to the applicant. The final sanction has also been made by the Accountant General, MP Accounts and Claims, Gwalior vide order dated 17.6.2005, whereby sanction of Rs. 3.50 Lac towards gratuity payment has been made. So far as the payment of family benefit fund and GIS is concerned on both the counts the final payment has since been made to the applicant in as much as vide order dated 10.9.2004 passed by the Principal Chief Conservator of Forests, MP, Bhopal, for an amount of Rs. 15,255 as FBF and GIS amount of Rs. 48,033/-. The same was sanctioned to the applicant and total payment of Rs. 63,288/- has been made on 13.10.2004. So far as the leave encashment is concerned, the final order dated 13.10.2003 has been passed by the State of Madhya Pradesh in Forest Department sanctioning 300 days leave encashment amounting to Rs. 2,82,100/- and payment was made to the applicant vide voucher dated 3.11.2003. With regard to the payment of computation of pension of the applicant is concerned it is submitted that the Accountant General of Madhya Pradesh, Gwalior has sanctioned a sum of Rs. 4,22,144/- towards commutation of pension of the applicant vide order dated 23.6.2005 and payment is to be made to the applicant by the District Treasury Officer, Gwalior. The District Treasury Officer wrote a letter dated 28.6.2005 to the Divisional Forest Officer, General Division, Gwalior seeking details of payment of pension and gratuity of the applicant and in response thereto desired information has been sent to the Treasury Officer, Gwalior on 8.7.2005. Thus final payment shall now be made to the applicant. In such circumstances no dues of the applicant remain to be settled by the respondents and no cause of action is available to the applicant and the applicant is liable to be dismissed.



6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records we find that the arguments advanced on behalf of the respondents that the applicant had concealed the fact about the pendency of the criminal case which was dropped on 14.7.2004 and 28.12.2004, seems to be correct as these facts are not controverted by the applicant by filing any rejoinder to this effect. We have perused the Annexures R-1 & R-2. Annexure R-1 is issued from the office of the Lokayukat, Bhopal and Annexure R-2 is issued by the Govt. of Madhya Pradesh, Legal Department, Bhopal on 28.12.2004. By letter dated 28.12.2004 (Annexure R-2) sanction for prosecution in crime No. 34/1995 and 35/1995 was not granted. Hence, the letter produced on behalf of the applicant of April, 2000 is not a complete document regarding non granting of sanction for prosecution against the applicant in Crime No. 34/1995 and 35/1995. We further find that during the pendency of the alleged criminal cases the retiral dues were not paid to the applicant but after the cases were dropped vide orders dated 14.7.2004 and 28.12.2004 most of the retiral dues have been paid and the payment of leave encashment was made prior to filing of this Original Application. The details of the payments are mentioned by the respondents Nos. 2 & 3 in their return from paragraphs 3 to 7. With regard to the payment of Gratuity ~~of~~ ^{of} the applicant is concerned the same are paid to the applicant by the respondents lately i.e. much after 28.12.2004 when the sanction for prosecution in the criminal cases were not accorded. Thus, the applicant seems to be legally entitled for the interest on the aforesaid amount which is paid to him after 28.12.2004 (Annexure R-2).

7. In view of the aforesaid circumstances, we are of the considered view that the applicant is entitled to get interest on the ~~payment~~ ^{of} the ~~gratuity~~ amount at the prevalent rate as prescribed for GPF, from three months after 28.12.2004. We do so accordingly. The respondents are directed to comply with the aforesaid directions within a period of three months from the date of receipt of a copy of this order.



8. Accordingly, the Original Application stands disposed of in the aforesaid terms. No costs.


(Madan Mohan)
 Judicial Member

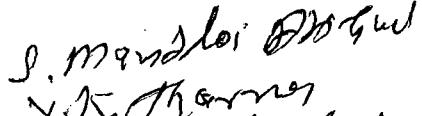
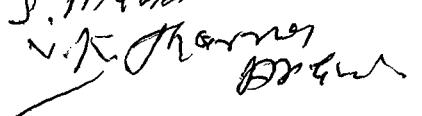

(M.P. Singh)
 Vice Chairman

“SA”

पृष्ठांकन सं. ओ/न्या.....जबलपुर, दि.....
 चलिकिति वार्षिक विवर:-

- (1) सचिव, राज्य विवाह विभाग, जबलपुर
- (2) विवाह विभाग, जबलपुर के उपर्युक्त
- (3) विवाह विभाग, जबलपुर के उपर्युक्त
- (4) विवाह विभाग, जबलपुर के उपर्युक्त

संस्था द्वारा दिलाई गई दस्तावेज़ों की संख्या :-


 I. Madan Mohan

 V.K. Sharma

 D.G.W.


 Taseel
 7/11/05