

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 340 of 2003

Jabalpur, this the 11th day of August, 2004

Hon'ble Shri M.P. Singh, Vice Chairman

G.L. Nayak, aged about 65 years,
S/o. late Nanhoorlal Nayak Retd.
Sorting Asstt. Railway Postal Services,
R/o. 450, Narayan Nagar, Rani
Durgawati Ward, Gulaia Chowk,
Jabalpur.

... Applicant

(By Advocate - Shri S.K. Nagpal)

V e r s u s

1. Union of India,
through : The Secretary,
Department of Post (India) Railway
Mail Service, New Delhi.
2. Director General, Postal Services,
Dak Bhawan, New Delhi.
3. The Superintendent, RMS,
Department of Post, Jabalpur
Division, Jabalpur.
4. The Director of Accounts, (Post),
Bhopal.

... Respondents

(By Advocate - Shri K.N. Pethia)

O R D E R (Oral)

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

8. i) to fix final pension of the applicant treating
the period from 9.11.1985 to 28.2.1988 as qualifying
service for pension,
- ii) to pay arrears of pension due consequent upon
final fixation of pension to the applicant within three
month alongwith interest @ 18% per annum,
- iii) to pay commuted value of 40% of final pension as
permissible under the rules,
- iv) to re-fix the gratuity payable to the applicant
consequent upon fixation of final pension and pay the
balance amount.
- v) to pay interest @ 18% on the amount of gratuity
from the date of retirement i.e. 28.12.1998 to the date
of actual payment.
- vi) to pay the arrears of pay and allowances
consequent upon grant of promotion under BCR w.e.f.
1.1.96 alongwith interest @ 18% per annum thereon."

2. The Tribunal vide its order dated 18.6.2003 has admitted the OA only in respect of the relief claimed in para 8(v) of the Original Application.

3. Heard the learned counsel for the parties.

4. The learned counsel for the applicant has stated that the applicant has retired from service on 28.2.1998, whereas the amount of his gratuity of Rs. 1,07,184/- has been paid to the applicant vide order dated 5th March, 2003. Thus, there is a delay for about 5 years on the payment of the amount of gratuity and the respondents are liable to pay the interest thereon. In this regard he has drawn our attention towards Government of India decision below Rule 68 of CCS (Pension) Rules, 1972.

5. On the other hand the learned counsel for the respondents has stated that Rule 68 of CCS (Pension) Rules, 1972 provides for the payment of interest on delayed payment of gratuity only in the case when the delay in payment was attributable to administrative lapses. In this case the applicant was involved in a criminal case and he was acquitted by the Criminal Court only on 15.3.2000 and thus the respondents could not pay the amount of gratuity which was due to the applicant at the time of his retirement i.e. on 28th February, 1998. Moreover the applicant has not been fully exonerated by the Criminal Court in the criminal case. According to him the benefit of payment of interest as provided in Government of India decision below Rule 68 of CCS (Pension) Rules, 1972, is applicable only in the case the Government servant is fully exonerated. But the applicant has only acquitted on benefit of doubt.

[Handwritten signature/initials over the last sentence]

Hence he is not entitled for payment of interest on delayed payment of gratuity from the date of his actual retirement.

6. The learned counsel for the applicant has stated that ~~maxper~~ para (1)3 of Government of India's decision dated 10.1.1983 reproduced below Rule 68 of CCS(Pension) Rules, 1972 provides that "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 retirement gratuity may also be allowed in their cases". As regards the contention of the learned counsel for the respondents that the applicant has not been fully exonerated, the learned counsel for the applicant has relied on the circular No.E(D&A)84 RG 6-26 issued by the Railway Board dated 29.4.1985, wherein it is provided that "even if the acquittal is on benefit of doubt the entire period from the date of suspension preceding the date of dismissal/removal/ compulsory retirement to the date of resumption should be treated as duty with full pay and allowances". In view of this circular, the learned counsel for the applicant has submitted that the applicant is entitled for payment of interest on gratuity from the date he retired i.e. from 1st March, 1998 to the actual date of payment made to him.

7. I have given careful consideration to the rival contentions made on behalf of the parties and I find that the applicant has retired from service on 28.2.1998. At that time a criminal case was going on in a Court of law against the applicant. The applicant has been exonerated on benefit of doubt by the order of the Judicial Magistrate, First Class, Katni dated 15.3.2000. The respondents have issued the order dated 5.3.2003 whereby the payment of the retirement gratuity of Rs.1,07,184/- has been ordered to be made to the applicant. Para (i)(c) of Govt. of India's decision No.(3) dated 22.1.91 below Rule 68 of CCS(Pension) Rules, 1972 provides as under-

"(c) In cases where the Government servant is not fully exonerated on the conclusion of disciplinary/ judicial proceedings and where the Competent Authority

decides to allow payment of gratuity, in such cases, the payment of gratuity will be deemed to have fallen due on the date of issue of orders by the Competent Authority for payment of gratuity vide O.M. No. 7(1) PU/79, dated 11.7.1979 (Para. 2 of Decision (1) above). If the payment of gratuity is delayed in such cases, interest will be payable for the period of delay beyond three months from the date of issue of the above-mentioned orders by the Competent authority.

In this case the order has been issued on 5.3.2003, although the applicant has been acquitted by the Criminal Court on 15.3.2000. The respondents have taken such ^along time to issue the order for payment of the gratuity. The delay in this case is attributable to the Department and therefore the applicant will be entitled for the interest on the payment of gratuity three months after the date of the order of Judicial Magistrate First Class, i.e. with effect from 15.6.2000 at the rate of the interest applicable to GPF deposits. The respondents are directed to comply with these 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 with the above observations. No costs.


(M.P. Singh)

Vice Chairman

rkv.

पूळांकन से ओ/न्या..... अबलपुर, दि.....

पुलिलिपि अक्षे दिन:--

(1) सदित, उक्त व्यापार, सरकारी व्यापार, अबलपुर

(2) आवेदन द्वी/अर्द्धद्वी/ए..... के अंतर्गत

(3) सहायी द्वी/श्रीकान्ती/ए..... के अंतर्गत

(4) अंतर्गत, रेसारा, अबलपुर राजस्थान

सूचना एवं अवधारणा कार्यालयी द्वी

SK Nayak
K N Pathia

उप रजिस्टर

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By