

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 438 of 2003

Jabalpur, this the 19th day of October, 2004

Hon'ble Mr. Madan Mohan, Judicial Member

Subroto Banerji,
Aged about 56 years
S/o Late Shri J.B. Banerji.
Occupation - Government Service
Principal Secretary
Department of General
Administration
Government of Madhya Pradesh
Vallabh Bhawan, Bhopal
R/o B-17 Char Imli,
Bhopal (M.P.)

APPLICANT

(By Advocate - Shri Bhagwan Singh)

VERSUS

1. Union of India
Through Secretary,
Department of Personnel
Public Grievance and Pension,
New Delhi.

2. State of Madhya Pradesh
Through Chief Secretary
Mantralaya,
Vallabh Bhawan,
Bhopal.

3. General Administration
Department
State of M.P., Mantralaya
Vallabh Bhawan, Bhopal
Through Principal Secretary,

RESPONDENTS

(By Advocate - Shri Om Namdeo)

ORDER

By Madan Mohan, Judicial Member -

By filing this OA, the applicant has sought the following main relief :-

"**1)** to grant interest at the rate of 18% per annum atleast or any other rate of interest which this Hon'ble Tribunal deems just and proper on the amount of arrears due to the applicant as a consequence of back dated promotion to super time scale w.e.f. 31.8.1987 with effect from the dates these arrear become due up till its realization i.e. (Arrears + interest) by the applicant."

2. The brief facts of the case are that the applicant is a member of Indian Administrative Service of 1971 batch, Madhya Pradesh Cadre and is presently posted as Principal Secretary, General Administration Department in the Government of Madhya Pradesh, at Mantralaya, Bhopal.

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Vide order dated 5.9.1998, the applicant was promoted to the super time scale of the IAS w.e.f. 31.8.1987 (Annexure-A-2). The applicant vide application dated 20.7.99 applied to the Government of Madhya Pradesh, General Administration Department, for payment of rate of interest on the arrears of back wages paid to the applicant for promotion to the super time scale w.e.f. 31.8.1987. The Tribunal vide order dated 21.3.2003 in OA No.506/99 directed the respondents to consider and decide the pending representation of the applicant and also directed the respondents to consider and decide a supplementary representation of the applicant for claiming the interest in accordance with the Rules. In compliance with direction of the Tribunal, the applicant has submitted an application dated 3.4.2003 to the Chief Secretary, Government of Madhya Pradesh, Bhopal with a copy to the Principal Secretary, General Administration Department, Government of Madhya Pradesh for disposal of the pending representation of the applicant dated 20.7.99. The respondents have rejected the claim of the applicant vide order dated 14.6.2003 for payment of interest on arrears of back wages for promotion to the super time scale of the IAS w.e.f. 31.8.87. Hence this OA.

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

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4. It is argued on behalf of the applicant that the applicant was not promoted within due time. Hence he had filed OA No. 765/93. The Tribunal vide order dated 31.3.97 directed the respondents to expunge the adverse remarks against the applicant and also directed the respondents a review DPC be constituted to consider the case of the applicant for promotion to the Super Time Scale within three months from today and if found fit promote him w.e.f. 3.8.1987. The applicant was promoted vide order dated 5.9.98(Annexure-A-2) with effect from 31.8.87. The learned counsel for the applicant further argued that the respondents have already paid back wages to the applicant consequent^{to} the aforesaid order of the Tribunal but not paid ~~backwages~~ paid the interest amount on the back wages. Hence he had filed OA No.506/99. Vide order dated 21.3.2003 directed the respondents to consider the case of the applicant for interest on the back wages in accordance with the Rules. Then the respondents have rejected the claim of the applicant for payment of interest. The learned counsel for the applicant has drawn my attention towards a judgement of Punjab and Haryana High Court in the case of V.P.Gautam, I.A.S Vs. Union of India and Others, 656 SLR 1979(2) ^{wherein} The Hon'ble High Court has ~~been~~ held that " High Court competent to grant interest on arrears of pay in exercise of writ jurisdiction. The powers of this Court under Art. 226 are very wide and it can compensate an aggrieved person in any reasonable manner for any loss suffered by him due to non-payment of dues". He has further drawn my attention towards the judgement of Chandigarh Bench of this Tribunal, in the case of Surinder Sing Vs. UOI & Ors. 1988(7) SLR 645.

5. In reply the learned counsel for the respondents has argued that they have decided the representation of the applicant in compliance with the direction given by the

Tribunal on 21.3.2003 in OA No. 506/99. The learned counsel for the respondents has further stated that the applicant is not entitled to get any interest on arrears of backwages as the respondents have already paid the back wages to the applicant in due time. He has further stated that the applicant did not claim for interest in earlier OA, he has subsequently claimed for interest in second OA No.506/99. The Tribunal had directed the respondents to decide the representation of the applicant in accordance with the rules, there is no rule about payment of such interest. Hence the respondents have not committed any discrimination with the applicant.

6. After hearing the learned counsel for the parties and careful persual of the records, I find that the respondents have already paid the back wages to the applicant in compliance with the order of this Tribunal dated 31.3.97 in OA No.765/93. Thereafter the applicant had submitted a representation dated 20.7.99 for payment of interest on the arrears of salary. No reply was received by him from the respondents. He has, therefore, filed an OA No.506/99 seeking direction of the Tribunal for payment of interest on arrears. The Tribunal vide its order dated 21.3.2003 directed the respondents to decide the pending representation of the applicant, for delayed payment of arrears of the salaries, by passing a speaking order. The respondents vide order dated 4.6.2003 have rejected the representation of the applicant. He has therefore, filed the present OA claiming the interest on delayed payment.

6.1 The applicant has submitted that he has been promoted to Super Time Scale of the IAS w.e.f. 31.8.1987 consequent to the orders of the Tribunal. He has also been paid the back wages as part of the consequential benefits. Now he is only claiming for payment of interest on the arrears of the back wages which form part of the consequential benefits of the earlier orders of the Tribunal. According to him, he has been deprived the monetory benefits in proper time which were paid to him only after contd....5/-

the orders of the Tribunal. Had the applicant been promoted to the Super Time Scale from the date his juniors were promoted, he would have got the salary in time and would have earned interest thereon. The applicant is, therefore, entitled for payment of interest on the arrears of back wages which accrued to him because of his back dated promotion w.e.f. 31.8.87. In support of his argument, he has relied upon a judgment of Chandigarh Bench of this Tribunal in the case of Surinder Singh Vs. Union of India & Ors. reported in 1988(7) SLR 645, judgment of Punjab and Haryana High Court in the case of V.P.Gautam, IAS (Retd) Vs. Union of India and Ors., reported in 656 SLR 1979(2), judgment of Karnataka High Court in the case of Vishwanath N. Vs. State of Karnataka and Ors., reported in 1979(2) 670 and the judgement of the Hon'ble Supreme Court in the case of S.R. Bhanrale Vs. UOI & Ors., reported in (1996) 10 SCC 172 and also the judgment of Hon'ble Supreme Court in the case of Union of India Vs. Justice S.S. Sandhawalia reported in 1994 2 SCC 240, in which it has been held as under :-

"Once it is established that an amount legally due to a party was not paid to it, the party responsible for withholding the same must pay interest at a rate considered reasonable by the Court."

7. In view of the above discussion, I find some substance in the submission made by the learned counsel for the applicant. Considering all the facts and law, of the case, I direct the respondents to pay the interest on the arrears of salary to the applicant at the simple rate of 8% which is presently applicable to GPF accumulation of the Govt. servant from the date it was due to the date of actual payment within a period of three months from the date of receipt of a copy of this order. No costs.


(Madan Mohan)
Judicial Member