

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR
Original Application No. 830 of 2003

Gwalior, this the 21st day of June, 2005.

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

S.B. Tiwari, aged about 65 years
Son of late Shri S.N. Tiwari, Ex-Principal
Kendriya Vidyalaya, Chhindawara (M.P.)
Presently residing at C/o Amit Book Depot,
Mahabir Palace, Dinara,
Distt Rohtas, (Bihar)

Applicant

(By Advocate – Shri P.N. Dubey)

V E R S U S

1. Commissioner, Kendriya Vidyalaya
Sangathan, 18 Institutional Area,
Shahid Jeetsing Marg, New Delhi.

2. Assistant Commissioner, Regional
Office, Kendriya Vidyalaya Sangathan,
Kendriya Vidyalaya G.C.Fy Campus,
Jabalpur (MP)

Respondents

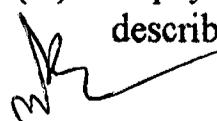
(By Advocate – Shri M.K. Verma)

O R D E R

By M.P. Singh, Vice Chairman –

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

- “(i) Direct the respondents to pay 18% interest on the all the dues paid by respondents after delay of one year.
- (ii) to direct respondents to re-imburse the amount of TA Bill for transportation of luggage and self and family members on retirement.
- (iii) to fix the pay of petitioner correctly and pay arrears of such increase and fix the pension on enhanced pay scale/time scale with 18% interest from date of promotion/fixation till date of payment.
- (iv) to pay the encashment of leave for period of 30 days, as described above.”



2. The brief facts of the case are that the applicant has retired on superannuation from service as Principal Grade-II, Kendriya Vidyalaya, Chhindwara on 31.8.1998. Due to certain differences at Regional Office level, the retiral dues of the applicant were held up. The applicant had earlier filed O.A.No.380/1999 and vide order dated 16.4.2003, This Tribunal had disposed of the said O.A. with a direction to the respondents to dispose of the fresh representation of the applicant. In pursuance of the said direction, the respondents have decided the representation of the applicant vide impugned order dated 10.10.2003 (Annexure-A-1) rejecting the claim made by the applicant. Thereafter, the applicant has filed the present OA 830/2003 and the Tribunal vide its order dated 3.11.2004 had disposed of the present OA in the following terms:-

“6. In the facts and circumstances of the case, we deem it appropriate to direct the applicant to file a detailed representation to the respondents, pointing out all his dues including TA/DA; leave encashment; fixation of his salary; and interest on the delayed amount of retiral benefits, within four weeks from the date of receipt of a copy of this order. If he complies with this order, the respondents are directed to consider his representation and also treat this OA as part of his representation and take a final decision in all the issues and thereafter make the payment of the retiral dues which are due to him including TA/DA, arrears of salary and other retiral dues. They shall also pay the interest on the delayed amount of his retiral dues at the rate prevalent for GPF for the respective years”.

The applicant had challenged the aforesaid order dated 3.11.2004 by filing Writ Petition No.1258 of 2005 and the Hon'ble High Court of Madhya Pradesh vide order dated 11.2.2005 have quashed the aforesaid order of the Tribunal and restored the OA to the file of this Tribunal with a request to consider and dispose of this OA as per law. This is how this Original Application was again heard on 16.5.2005.

3. During the course of arguments the learned counsel for the applicant has stated that the payment of encashment of leave for 30 days was withheld due to wrong recording of nature of leave i.e. the casual leave of 20 days taken by the applicant was shown against the earned leave, therefore, encashment was refused. He has further submitted that



the pay of the applicant ought to have been fixed as per CCS(Revised Pay)Rules, 1997. According to the applicant he was drawing basic pay of Rs.3600/- including one stagnation increment (Rs.3500 + Rs.100) + Rs.150/- special allowance + Rs.460 IR + Rs.5180 DA i.e Total Rs.9390/. As per above rules, 40% of this total amount i.e. Rs.1440/- is to be added in this amount. After adding this amount, the total amount works out to be Rs.10830/. The new pay scale applicable to the applicant w.e.f. 1.1.96 is Rs.7500-12000. Therefore, the next stage of this pay scale ought to have been at Rs.11,000/. According to fixation rules for every three increments drawn by individual in the pre-revised pay scale, one increment is to be given in the revised pay scale. As the applicant had drawn more than six increments, as such he was entitled for two increments of the revised pay scale to be added while fixing his pay. Therefore, by adding those increments, his pay would have been fixed at the stage of Rs.11,750/- w.e.f. 1.1.1996. By adding stagnation increment his pay should have been fixed at Rs.12,000/- as on 1.1.1996. As per the notification dated 25.5.1995 if one is drawing his pay in the revised pay scale at the maximum, he should be put in the next higher scale. The higher pay scale of Rs.7500-12000 is Rs.8000-13500. Therefore, the applicant ought to have been fixed in the pay scale of Rs.8000-13500, which has not been done.

3.1 The learned counsel for the applicant has also submitted that the TA bill of the applicant for journey from Chhindwara to his home town also ought to have been allowed by the respondents. He has lastly submitted that the respondents be directed to pay interest on the delayed payment of retiral dues.

4. The learned counsel for the respondents on the other hand has submitted that all the retiral dues of the applicant have been paid and nothing is outstanding. He has drawn our attention to the order issued by them dated 10.10.2003 whereby it is stated that the applicant was drawing pay of Rs.3500/- with effect from 1.1.1993 which is the maximum of the senior scale of pay of PGT i.e. Rs.2000-3500. The applicant was allowed first stagnation increment at the rate of Rs.100/- on



1.1.1995 raising his pay to Rs.3500+100. The applicant was then promoted to the grade of Principal Grade-II w.e.f. 10.7.1995. Since the applicant was drawing the maximum pay and the stagnation increment in the senior scale of PGT, which is also identical pay scale of Principal Grade-II, therefore, his pay on promotion to the post of Principal Grade-II was fixed at Rs.3500+100 with date of next increment as 1.1.1997 vide office order dated 4.12.1997.

4.1 The learned counsel for the respondents has further submitted that as regards the claim of the applicant to avail LTC after retirement, it is not permissible as per rules, rather this provision is a pre-determined phenomenon based on rules and regulations framed for the purpose by the Government from time to time. The applicant had retired from service w.e.f. 31.8.1998 on attaining the age of superannuation and as such the time limit to avail LTC after retirement upto June,2000 could not be considered as he was not entitled to avail LTC after 31.8.1998.

4.2 As regards the encashment of earned leave, the learned counsel for the respondents has contended that the applicant has not mentioned specific dates for which he has availed casual leave and which has been debited from his earned leave account and as such this fact could not be verified. Further, as per norms, every Government servant can verify the entries in his leave account. If the applicant had done so, the present situation i.e. alleged inadvertent debit of earned leave against casual leave availed by him would not have happened. In view of the aforesaid submissions, the OA is liable to be dismissed.

5. We have given careful consideration to the rival contentions. The applicant has mainly claimed :-

- (i) payment of encashment of earned leave for 30 days;
- (ii) fixation of his pay on the revised pay scale;
- (iii) reimbursement of amount of TA bill for transportation of luggage and self and family members on retirement and also
- (iv) 18 % interest on all dues paid by the respondents after delay of one year.



(v) He has also claimed cost of the application to the tune of Rs.1,00,000/-

6. We have gone through the pleadings and have also seen the order passed by the respondents on 10.10.2003. We find that the applicant was working in the senior scale of PGT (Rs.2000-3500) and drawing the maximum of the said scale of pay ie. Rs.3500/- . He was allowed first stagnation increment at the rate of Rs.100/- with effect from 1.1.1995 raising his pay to Rs.3500+100. Thereafter, he was promoted to the post of Principal Grade-II with effect from 10.7.1995. Since the pay scale of Principal Grade-II and the senior scale of PGT were identical, his pay was fixed at Rs.3500+100(S.I.) with date of second stagnation increment on 1.1.1997. This appears to be in order. We have also seen Table No.12 given in the CCS(Revised Pay)Rules,1997 where the revised pay scales are given. The contention of the applicant that as per the notification dated 25.5.1995 if one is drawing his pay in his pre-revised scale at the maximum, he should be put in the next higher scale, is not acceptable and is accordingly rejected as all the orders regarding fixation of pay in the revised pay scale from 1.1.1996 have been issued only after the recommendations of the 5th Central Pay Commission have been accepted in the year 1997. Therefore, the reasoning given by the applicant in para 6.7 of the OA 380/99 is only on hypothetic basis. He has not produced any circular in support of his aforesaid claim. The revised pay scale of Rs.8000-13500 was not the revised pay scale for the pre-revised pay scale of Rs.2000-3500 in which the applicant was working as PGT(Senior Scale) and also as Principal Grade-II. Therefore, in the absence of any supporting documents regarding this claim of the applicant for fixation of pay in the scale of Rs.8000-13500 is not tenable and accordingly rejected.

7. The claim of the applicant for payment of encashment of earned leave for 30 days is also not tenable as the applicant has not given any supporting documents and we are in full agreement with the contention of the learned counsel for the respondents that the applicant had the access and could have verified the entry in his leave account. Had he



done so, the present situation i.e. alleged inadvertent debit in the earned leave account would not have arisen. Moreover, the record of the casual leave is not a permanent record. Even on this ground it was not ~~also~~ possible to verify the claim of the applicant for debiting of casual leave against the earned leave. Therefore, this prayer of the applicant is also rejected.

8. With regard to the claim of the applicant for transportation of luggage and TA for self and family members on retirement, the same is also not tenable as he has not sought permission to avail this transfer TA on retirement upto June,2000. Govt.of India's order below SR 147 provides that a member of a Government servant's family should follow him within six months from the date of his retirement or ~~precede~~ him by not more than one month may be treated as accompanying him. The period of one month or six months, as the case may be, is counted from the date the Government servant actually moves. The claim of traveling allowance in respect of the family members will not be payable until the members of the family actually moves. This time limit of one month and six months mentioned above, may be extended by the competent authority prescribed in SR 116(b)(iii) for individual cases attendant with special circumstances. Since the applicant had retired on 31.8.1998, he could have been allowed to avail TA on retirement maximum upto the period of six months after retirement by recording special reasons, which means upto February,1999 and not upto June,2000. Therefore, no illegality has been committed by the ~~respondents~~ by rejecting his claim of TA on retirement as it is not permissible within the rules. The claim of cost of Rs.1,00,000/-is also not tenable and is rejected.

9. With regard to the claim of the applicant for interest on delayed payment of retiral dues, we find that the respondents in para 6.1 of their reply have stated as under:

"There is no intentional delay in granting retiral benefits to the applicant. The service book of applicant was lying with the E-II section for fixation of pay consequent upon Vth Pay Commission recommendation which naturally took sometime in E-II section since



as a result of pay revision a large number of cases became due for revision/fixation at a time. Ultimately, P&I Section received his service book after fixation of his pay on 26.4.99 and all his retiral/pensionary benefits were promptly released vide order dated 5.8.99.

Since the respondents have admitted delay in payment of his retiral dues and the applicant himself was not responsible for the delay, the respondents are liable to pay interest on his all retiral dues, after a period of three months from the date of retirement, at the rate prevalent for General Provident Fund, during the relevant period, as provided in Rule 68(2) of the CCS(Pension)Rules,1972. The respondents are directed to comply with this order within a period of three months from the date of communication of this order. No costs.

10. In the result, with the directions contained in the preceding paragraph, this Original Application is disposed of. No costs.


(Madan Mohan)
Judicial Member


(M.P.Singh)
Vice Chairman

Rkv.

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
 प्रतिलिपि अवृत्तिः—
 (1) रातिक, उच्च व्यायालय बाई एशोधिग्राम, जबलपुर
 (2) आदेशक श्री/श्रीमती/व्यु.के वार्ताल
 (3) प्रत्यर्थी श्री/श्रीमती/व्यु.के काम्पसल
 (4) व्यायालय, नोएडा, जबलपुर उपायकीठ
 सूचना एवं अवश्यक कार्यवाही हेतु

*P.K. Dubey ADW/MS
 M.K. Venues AD
 JBM*

अपरिजित स्वामी

*Received
 M
 5.7.95*