

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT BENCH AT BILASPUR

Original Application No. 832 of 2002

Bilaspur, this the 10th day of December, 2003

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri G. Shanthappa, Judicial Member

R.P. Modi, S/o. S.L. Modi,
aged about 69 years, Occupation-
Retired Inspector General of Police,
R/o. 5 Parijat, Sepat Road, Sarcanda,
Bilaspur (Chhattisgarh).

... Applicant

(By Advocate - Shri S.P. Sinha)

V e r s u s

1. Union of India, Through
The Secretary, Home Department,
Government of India, New Delhi.
2. State of M.P., Through the
Secretary, Home (Police)
Department, Vallabh Bhawan, Bhopal,
M.P.
3. Director General of Police,
Police Head Quarter, Madhya
Pradesh, Bhopal, M.P.

... Respondents

(By Advocate - Shri Om Namdeo for respondent No. 1 &
none for other respondents)

O R D E R (Oral)

By G. Shanthappa, Judicial Member -

The applicant has filed the above application seeking the relief to make the payment of interest on gratuity and to direct the respondents to pay interest @ 18% from the date of retirement.

2. The brief facts of the case are that the applicant retired from service on 31.12.1991. There was a special criminal case pending against him. Subsequently, the respondents came to know that a special criminal case No. 8/1995 under the prevention of Corruption Act, in the Court of Special Magistrate, Lokayukta Court, Jabalpur, was pend-

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ing against the applicant. The said court has passed the judgment on 25.09.2001 exonerating the applicant from all the charges. The applicant submitted a representation dated 27.09.2001 (Annexure A-1) to the Department/Respondents to sanction the gratuity amount of Rs. 1,00,000/- alongwith the interest. The respondents have granted the amount. Out of the said amount Rs. 78,635/- was paid on 18.07.2002 and no interest was sanctioned on the gratuity amount. The applicant has submitted a representation on 15.07.2002 to the respondent No. 2. The applicant has received a letter dated 02.08.2002 in which the respondents have refused to pay the interest on the gratuity amount. Hence the applicant has approached this Tribunal for grant of the interest on gratuity for delayed payment. The applicant has also requested for direction to the respondents to pay the interest on the delayed gratuity amount under Rule 68 of the Central Civil Service (Pension) Rules, 1972.

3. The respondent No. 2 and 3 have filed their reply contending that the applicant is not entitle for the interest under Rule 6 of the All India Services (Death-cum-Retirement Benefits) Rules, 1958. The respondents have specifically contended that the gratuity of the applicant was withheld in attendance with the statutory provisions and due to pendency of judicial proceedings and cannot be attributed to the respondents. The power to withhold the gratuity has been upheld by the Apex Court in the case of State of Orissa and others Vs. Kalicharan Mohapatra and another reported in (1995) 6 SCC 105. Hence the respondents have issued the letters at Annexure R-1 and Annexure R-2, stating that the applicant is not entitle for interest on the gratuity.

4. After hearing the applicant and his learned counsel and the learned counsel for the respondent No. 1 and after



perusal of the record, we proceed to decide the application finally.

5. The substantial question of law in this case is whether the applicant is entitle for the interest on gratuity? The applicant, who is a ~~IPS~~ officer, is entitled for interest on gratuity under Rule 19-A of All India Services (Death-cum-
retired
IPS Retirement Benefits) Rules and not under Rule 68 of the Central Civil Service (Pension) Rules, 1972. Rule 19-A of All India Services (Death-Cum-Retirement Benefits) Rules is extracted below :

"19-A. Interest on delayed payment of Gratuity or Death-cum-Retirement Gratuity.-(1) If the payment of gratuity or death-cum-retirement gratuity has been authorised after three months from the date when its payment became due, and it is clearly established that the delay in payment was attributable to administrative lapses, interest at the rate prescribed by the Central Government from time to time shall be paid on the amount of gratuity or death-cum-retirement gratuity in respect of the period beyond three months :

Provided that if the cause of delay in payment was attributable to the member of the Service, no interest shall be paid.

(2) If as a result of Government's decision taken subsequent to the retirement of a member of the Service, the amount of gratuity or death-cum-retirement gratuity already paid on his retirement is enhanced on account of,-

(i) grant of emoluments higher than the emoluments on which gratuity or death-cum-retirement gratuity was determined; or

(ii) liberalisation in the provisions of these rules from a date prior to the date of retirement of the member of the service concerned, no interest on the arrears of gratuity or death-cum-retirement gratuity shall be paid."

(emphasis supplied)

6. Accordingly, we allow this Original Application directing the respondents to pay the interest on delayed payment of the gratuity under Rule 19-A of All India Services (Death-cum-retirement Benefits) Rules and not under Rule 68 of the Central Civil Service (Pension) Rules, 1972.

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The applicant is entitled for the same after three months from the date of retirement i.e. from 01.04.1992. The respondents are also directed to adjudicate and pay the interest on DCRG. Accordingly, time is granted to comply with the orders of this Tribunal. The said payment has to be payable to the applicant within a period of two months from the date of receipt of copy of this order. No costs.

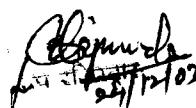

(G. Shanthappa)
Judicial Member

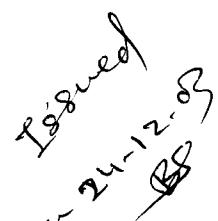

(M.P. Singh)
Vice Chairman

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S P Sinha, Ad.
Om Namdeo, Ad.


B. R. Singh
25/12/02


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On 24-12-02