

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.146 of 2000

Jabalpur, this the 17th day of November, 2003

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

D.K.Mallick, Retd.Asstt Store Holder,
Vehicle Factory, Jabalpur.
Present Address

C/o Perfect Enclave, Nalanda Apartment,
Flat No.4, Sneh Nagar, Jabalpur

- APPLICANT

(By Advocate - Shri M.N.Banerji)

Versus

1. Union of India through Secretary,
Ministry of Defence, New Delhi.

2. Chairman, Ordnance Factory Board,
10-A, Auckland Road, Calcutta.

3. General Manager, Vehicle Factory, Jabalpur - RESPONDENTS
(By Advocate - Shri S.A.Dharmadhikari)

ORDER

The applicant by filing this Original Application has sought a direction to the respondents to make payment of interest on the amount of gratuity which was withheld by the respondents.

2. The applicant retired from the Govt.service on 31.8.1991 as Assistant Store Holder from the Office of the Vehicle Factory, Jabalpur on attaining the age of superannuation. The applicant was proceeded departmentally before his retirement and the enquiry was completed on 5.8.1991. The matter was referred to the President of India for passing final order. Since gratuity of the applicant was not paid, he filed O.A.No. 495/1997 before this Tribunal and the Tribunal passed the following order on 25.6.1998 -

"2. ...It is surprising that the delinquent employee is being punished by non-payment of Gratuity for lack of supervision. The decision by the Government is said to have been pending for the last 8 years. On this ground alone, the applicant should get some relief. Now the decision should be taken within a month hereof by the respondent-authorities. The applicant shall be entitled to get the amount of gratuity if the decision is not taken within a month...."

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Thereafter, the respondents have made the payment of the gratuity to the applicant. He was paid an amount of Rs.29213/- vide Annexure-4. However, no interest, on the amount of gratuity withheld by the respondents, was paid. Hence he has filed this Original Application.

3. Heard the learned counsel for the parties and perused the record carefully.

4. The learned counsel for the applicant has submitted that as no order was passed in the disciplinary case, the amount of gratuity has been paid. He has submitted that the charges were dropped vide OFB fax message dated 11.8.1998. He has, therefore, submitted that as the charges levelled against the applicant have been dropped, he is entitled for interest on the withheld amount of gratuity as provided under the rules.

5. On the other hand the learned counsel for the respondents has submitted that as no order for interest on the withheld amount of gratuity was passed by the Tribunal in the earlier OA 495/1997, the applicant by this OA cannot claim interest on the said withheld amount of gratuity as it will hit by the doctrine of res judicata.

6. I have carefully considered the arguments advanced by both the counsel.

7. It is not in dispute that the order of the Tribunal for payment of gratuity was passed on 25.6.1998 by observing that "the applicant shall be entitled to get the amount of gratuity if the decision is not taken within a month". It is only thereafter that the respondents have dropped the charges levelled against the applicant, as alleged by the applicant vide order dated 11.8.1998. As the charges were not dropped till the date of passing of the judgment in OA 495/97, the question of consideration of interest on withheld amount of gratuity could not arise, in terms of Govt. of India no.1

reproduced below Rule 68 of CCS(Pension)Rules, 1972 which

Contd.....3/-

specifically stipulates that on the conclusion of the disciplinary or judicial proceedings if the Government servants are fully exonerated, the interest on delayed payment of retirement gratuity may also be allowed in their case.

8. Though the applicant has alleged that the respondents have dropped the charges vide fax message dated 11.8.1998, he has not filed a copy of the said order. In case the charges have been dropped by the OFB vide order dated 11.8.1998 then the respondents are directed to take further action with regard to payment of interest on the withheld amount of gratuity as provided under the Govt. of India's orders reproduced below Rule 68 of the CCS (Pension) Rules, 1972.

9. With the above terms, the OA is disposed of. The respondents are directed to comply with the above direction within a period of three months from the date of communication of this order. No costs.

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(M.P. Singh)
Vice Chairman

rkv.

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MN Banerjee, Adv.
SA Dharmadhikari, Adv.

19.11.03

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