

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDER SHEET

ORDERS OF THE TRIBUNAL

3.1.2007

OA 444/2005

Mr.P.N.Jatti, counsel for applicant.
Mr.S.S.Hasan, counsel for respondents.

Learned counsel for the applicant submits that there are judgements rendered by the Tribunal whereby interest on gratuity has been awarded where the payment has been made within less than 90 days, and prays for adjournment.

Let the matter be listed for further hearing on 4.1.2007.


(J.P. SHUKLA)
MEMBER (A)

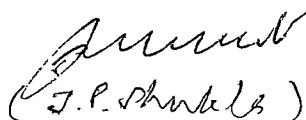

(M.L. CHAUHAN)
MEMBER (J)

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4.1.07 Mr. P.N.Jatti, counsel for applicant.
Mr. S.S.Hasan, counsel for respondents

Heard the learned counsel
for the parties.

The OA stands disposed of
by a separate order.


(J.P. SHUKLA)
M(A)


(M.L. CHAUHAN)
M(J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 4th day of January, 2007

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDL.)

HON'BLE MR. J.P.SHUKLA, MEMBER (ADMV.)

ORIGINAL APPLICATION No.444/2005

L.R.Saini,
s/o Shri Chhotey Lal Saini,
aged about 60 years,
r/o 10/66, Badiyal Road,
Gokul Nagar, Bandikui,
presently retd. Sub-Postmaster,
PO Bandikui RS.

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

1. Union of India through the Secretary to the Govt. of India, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. The Principal Chief Post Master General, Rajasthan Circle, Jaipur.
3. The Superintendent Post Offices, "M" Dn. Shastri Nagar, Jaipur
4. The Director of Accounts (Postal), Jaipur

.. Respondents

(By Advocate: Shri S.S.Hasan)

42

O R D E R (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

“That by a suitable writ/order or the direction the respondents be directed to allow the 12% interest on the delayed retiral benefits and general provident fund.

- (a) Gratuity Rs. 2,16,277 for 42 days
- (b) Leave Encashment Rs. 1,35,140 for 48 days
- (c) General Provident Rs. 2,63,983 for 53 days

Any other relief which the Hon'ble bench deems fit.”

2. Briefly stated facts of the case are that the applicant while working as Sub Postmaster, Post Office, Bandikui retired on superannuation on 30.6.2005. It is averred that the applicant was paid gratuity amount to the tune of Rs.2,16,277 on 12.8.2005 after 42 days of his retirement. It is further pleaded that he was paid leave encashment amounting to Rs. 1,35,140 on 16.8.2005 after a lapse of 48 days from the date of retirement. Further case of the applicant is that he has received payment of General Provident Fund amounting to Rs. 2,63,983 on 23.8.2005 after 53 days. Thus, the applicant has claimed interest on the aforesaid amount at the rate of 12%.

3. Notice of this application was given to the respondents. *In the reply, the facts as stated above are not disputed.* So far as claim of granting interest of DCRG

is concerned, the stand taken by the respondents is that pension papers of the applicant were submitted by the Sub Division Office, Bandikui on 1.2.05 to the Superintendent of Post Offices, Jaipur (M) Division. After completion of usual formalities and required documents, the same were submitted to the Director Accounts (Postal), Jaipur for sanction of DCRG and other retiral benefits on 10.5.2005 whereupon the pension case of the applicant was examined by the Accounts Officer (Pension) alongwith the service book of the applicant and the same was returned to the Postmaster, Dausa head office vide letter dated 1.6.2005 for calculation and over payment of pay and allowances due to wrong fixation of pay at the time of promotion of the applicant under BCR scheme w.e.f. 5.11.91. After calculation of over payment made to the applicant at the time of fixation of pay, his pension case was again submitted to the Director Accounts (Postal) Jaipur vide letter dated 21.7.2005. The case was then again examined in the office of Director Accounts (Postal) Jaipur and the same was thereafter sent to the Superintendent of Post Offices, Jaipur (M) Division vide letter dated 3.8.05 alongwith a sanction of Rs. 2,22,981 with the remarks that the over payment of pay and allowances amounting to Rs. 5704 should be deducted from the DCRG of the applicant. Thereafter in accordance with memo dated 3.8.2005, sanction for a sum of Rs. 2,16,277 (after deducting the over payment)

was issued by the Superintendent of Post Offices, Jaipur (M) Division vide his memo dated 10.8.2005 while order for payment of leave encashment was issued vide memo dated 11.8.2005. Both the payments were made to the applicant on 12.8.2005 and 16.8.2005. Thus, according to the respondents, the matter of payment of retiral benefits to the applicant was already initiated even prior to his retirement and the same was under due scrutiny with the various authorities concerned but as it was found that some over payment were made to the applicant on account of wrong pay fixation of pay of the applicant at the time of his promotion which became recoverable from him before making his terminal benefits, therefore, the case was returned to the concerned officer for recalculation of his retiral benefits after deducting such over payments. Thus, there is no delay on their part. The respondents have further stated that payment of leave encashment and gratuity were made well within the period of 3 months from the date of his retirement as contained in GID (2) below Rule 68 of CCS (Pension) Rules, 1972 which envisages that if the payment of pensionary benefits including DCRG are made to a retired official within the period of three months from the date of his retirement, he shall not be entitled for getting any interest.

3.1 Regarding awarding interest on the amount of General Provident Fund, the respondents have stated that the applicant who has retired on superannuation on 30.6.2005 was entitled to interest and in terms of Rule 11(4) of the GPF (CS) Rules one month's period w.e.f. 1.7.05 to 31.7.05 should be excluded and then, the period of six months should be counted from 1st August, 2005 to 31st January, 2006 and not from 1st July, 2005 to 31st December, 2005 as alleged by the applicant. According to respondents, in the present case payment of GPF amount was made to the applicant on 23.8.2005, however, inadvertently due to some oversight, interest for the month of June, 2005 was added therein instead for the period 1.8.2005 to 22.8.2005. It is further stated that this fact came to the notice of the answering respondents when the copy of the OA was received by them alongwith the notice of this Hon'ble Tribunal sometime in the month of October, 2005, otherwise, the applicant himself never brought this fact to the notice of the respondents. It is further stated that upon knowing this fact from the OA, this bonafide error of the respondents has already been rectified and interest w.e.f. 1.8.2005 to 22.8.2005 amounting to Rs. 1225/- has been paid to the applicant on 26.11.2005.

4. The applicant has filed rejoinder thereby reiterating the submissions made in the OA.

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5. We have heard the learned counsel for the parties and gone through the material placed on record.

6. In order to decide whether the applicant is entitled to any interest on account of delayed payment of gratuity for 42 days, it will be useful to quote relevant portion of Rule 68 of CCS (Pension) Rules, 1972 which thus reads as under:-

“68. Interest of delayed payment of gratuity

(1) If the payment of gratuity has been authorized later than the date when its payment becomes due, and it is clearly established that the delay in payment was attributable to administrative lapses, interest shall be paid at such rate as may be prescribed and in accordance with the instructions issued from time to time

(2).....”

The Government of India has also issued instructions thereby prescribing rate of interest vide Government of India's decision No. (2) below Rule 68, which thus reads:-

“(2) Interest for delayed payment of Retirement/Death Gratuity to be at the rate applicable to GPF deposits.- It has been decided that where the payment of DCRG has been delayed beyond three months from the date of

retirement, an interest at the rate applicable to GPF deposits will be paid to retired/dependants of deceased Government servant."

Thus from reading of the aforesaid provision, it is clear that interest is payable only in such cases where payment of DCRG has been delayed beyond three months from the date of retirement and such interest will be paid at the rates applicable to the GPF deposits. Admittedly, in this case payment was made much prior to the period of three months from the date of retirement. Thus, according to us, the applicant is not entitled to any interest. Even otherwise also, it is not a case which clearly establish that the delay in the payment was attributable to administrative lapses. The respondents have given explanation under which circumstances the payment could not be made immediately after retirement to the applicant. It is also apparent from the record that pension papers were submitted by the Sub Divisional Office, Bandikui on 1.2.2005 i.e. about 5 months prior to the retirement of the applicant. Since the applicant was made over payment of pay and allowances of Rs. 5704/- due to wrong fixation of pay at the time of promotion of the applicant under BCR scheme w.e.f. 5.11.91, it was on that account that there was some delay which resulted in late payment of gratuity amount and leave encashment. Thus in the facts and circumstances of this case, it cannot be said that it is a case where

the delay in payment is clear established and attributable to the administrative lapses in terms of Rule 68 (1). On the same parity, the applicant is not entitled to any interest on the amount of leave encashment and also there is no specific provision in the leave rules regarding grant of interest on delayed payment of leave encashment as available in CCS (Pension) Rules regarding delay in payment of gratuity. Thus, we are of the view that the applicant has not made out any case for grant of any relief.

7. The learned counsel for the applicant brought to our notice a decision rendered by the Single Bench of the CAT-Mumbai Bench in the case of S.R.Lohokare vs. Union of India and ors., OA No.87/1995 reported in AISLJ 1996 (3) (CAT) and argued that the applicant is entitled for interest from the next date of his retirement. We fail to understand how this judgment is applicable in the facts and circumstances of this case. That was a case where the applicant retired on 30.9.89. Before his retirement minor penalty proceedings were initiated against the applicant. The departmental proceedings were dropped on 5.8.93 and payment of DCRG and leave encashment amount was paid immediately thereafter on 3.9.93 and 13.10.93. It is on the facts and circumstances of that case the learned Single Judge directed the respondents to pay interest on the next date of retirement as there was a

considerable delay of 4 years in making payment of retiral benefits to the applicant. This is not a case in the instant case. Further, from perusal of the judgment it is clear that entitlement for grant of interest was not seriously disputed by the respondents. Thus, the judgment rendered by the Single Bench without discussing the provision of Rule 68 and noticing the Government of India instructions as quoted above, cannot be said to have laid a law that in all cases interest has to be paid immedately after the date of retirement. Thus, the applicant cannot draw any assistance from this judgment. So far as grant of interest of GPF amount is concerned, the respondents have made payment to the applicant in terms of Rule 11(4) of the GPF (CS) Rules. As such, claim of the applicant on this aspect does not survive.

8. For the foregoing reasons, the OA is bereft of merit, which is accordingly dismissed with no order as to costs.


(J.P. SHUKLA)

Administrative Member

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(M.L. CHAUHAN)

Judicial Member