

18.02.2009

OA No. 348/2008

Mr. P.N. Jatti, Counsel for applicant.

Mr. R.G. Gupta, Counsel for respondents.

Heard learned counsel for the parties.

For the reasons dictated separately, the OA is disposed of.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 18th day of February, 2009

ORIGINATION APPLICATION NO. 348/2008

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

G.K. Sharma son of Shri Hariprasad Sharma by caste Sharma aged about 75 years, resident of 104/10, Shanti Path, Agarwal Farm, Jaipur. Presently retired from Shop Superintendent (Planning) CNW, Ajmer.

.....APPLICANT

(By Advocate: Mr. P.N. Jatti)

VERSUS

1. The General Manager, North Western Railway, Jaipur.
2. The Deputy Chief Mechanical Engineer (CNW), North Western Railway, Ajmer.

.....RESPONDENTS

(By Advocate: Mr. R.G. Gupta)

ORDER (ORAL)

The applicant has filed this OA in the nature of Execution Petition. While disposing OA No. 182/1989 vide order dated 23.06.2000, this Tribunal in the operative portion has passed the following order:-

"12. I, therefore, allow the OA and direct the respondents to determine and pay the regular pension, gratuity and other retiral benefits payable to the applicant within a period of 3 months from the date of receipt of a copy of this order with interest @ 12% per annum w.e.f. 01.04.1994 subject to the applicant executing an indemnity bond with two sureties to the effect that the applicant will refund the amount to the respondents in the event of recovery being ordered from him by the appropriate authorities."

2. The matter was subsequently carried to the Hon'ble High Court by filing Writ Petition before the Hon'ble High Court. After disposal of

the Writ Petition, the applicant has filed this OA/Execution Petition for implementation of the order dated 23.06.2000 passed by this Tribunal in OA No. 182/1989. As can be seen from the grounds taken in this OA, the applicant is claiming interest on Rs.73,000/-, which is gratuity amount as per calculation made by the applicant in Para No. 5.6(C).

3. Notice of this application was given to the respondents. The respondents have categorically stated that amount of gratuity paid to the applicant was Rs.69,300/- and not Rs.73,000/-, as alleged by the applicant. The respondents have also placed on record a statement showing as to how 12% of interest pursuant to the judgement rendered by this Tribunal was calculated on the amount of Rs.69,300/-, which has been placed on record as Annexure R/1 A at Page No. 42 of the OA. Thus according to the respondents, after deducting the income tax @ 10%, the net amount payable to the applicant is Rs.60,343/- and not Rs.1,09,560/- as claimed by the applicant.

4. The applicant has filed rejoinder thereby reiterating the submission made by him in the OA.

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


6. Learned counsel for the applicant fairly submitted that in fact the amount of gratuity payable to the applicant was Rs.69,300/- and the amount of Rs.73,000/- was calculated after including the arrear of Subsistence Allowance of the applicant. Thus the interest has to be calculated on the aforesaid amount. The further grievance of the applicant is that the respondents have calculated 12% simple interest whereas the applicant is entitled to the compound interest.

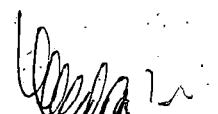
7. We have given due consideration to the submission made by the learned counsel for the applicant. We are in Execution Petition as such we have to execute the order of the Tribunal strictly in

conformity with the direction issued in the case, without granting any relief. ~~on We cannot go over & above the direction~~ what has been given in the OA. As can be seen from the operative portion of the order, which has been reproduced above, it is evident that Hon'ble Tribunal has not given the direction that the applicant shall be entitled to compound interest @ 12%. What is stated in the order is that applicant shall be entitled interest of 12% w.e.f. 01.04.1994. To issue the direction to the respondents that applicant is entitled to compound interest @ 12% p.a. instead of simple interest will amount to granting relief over and above, not granted by this Tribunal in order under execution. Thus we are of the view that the contention of the applicant cannot be accepted. The remedy if any lies to the applicant elsewhere.

8. In view of what has been stated above, we are of the view that the only limited relief which the applicant is entitled is that the respondents shall to pay the amount of Rs.60,343/- on account of interest on gratuity amount to the applicant within a period of two months from the date of receipt of the copy of this order, if not already paid to him.

9. With these observations, the OA is disposed of with no order as to costs.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

AHQ