

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 29th day of July, 2010

ORIGINAL APPLICATION 122/2009
With
MISC. APPLICATION NO. 131/2010

CORAM

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER

Madan Lal Sharma son of Shri Ramdhan Panda aged about 73 years,
resident of 31-Awadhpuri, Lal Kothi, Tonk Road, Jaipur.

.....Applicant

(By Advocate: Ms. Kavita Bhati)

VERSUS

1. Union of India through its Secretary to the Government of India, Department of Telecom, Sanchar Bhawan, New Delhi.
2. Chief General Manager Telecom, Rajasthan Circle, New Delhi.
3. The Principal General Manager Telecom, District Jaipur.
4. The Deputy General manager (A), Department of Telecom, District Jaipur.

.....Respondents

(By Advocate: Mr. Siya Ram proxy to Mr. T.P. Sharma)

ORDER (ORAL)

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

- "(i) By an appropriate order or direction the respondents be directed to grant the arrear of the pension w.e.f. 22.05.2002 till 31.07.2004 upto which the applicant received the provisional pension i.e. after the finalization of the criminal case vide judgment dated 21.05.2002.
- (ii) By an appropriate order or direction the respondents may be directed to grant interest for the period from 22.05.2002 till 31.07.2004 to the date of actual payment over the amount of DCRG at the rate of 18%.
- (iii) Cost of the application may also kindly be awarded to the poor applicant; and

Any other order or direction, which this Hon'ble Tribunal deems fit and proper, may also kindly be passed in the



favour of the applicant in the larger interest of the equity justice and law.

2. Briefly stated, facts of the case so far as relevant for the decision of the case are that the applicant while working as Telephone Supervisor was placed under suspension on 26.05.1989. A Criminal case was filed against the applicant and he had remained in the custody w.e.f. 19.05.1989 for a period exceeding 48 hours. The applicant retired from service on 30.11.1994. Since a Criminal case was pending, the applicant was granted provisional pension upto 31.07.2004 and thereafter regular pension w.e.f. 01.08.2004. The applicant was acquitted by the Criminal Court on 21.05.2002. The relief claimed by the applicant vide Para 8(i) regarding direction to the respondents to grant arrear of pension w.e.f. 22.05.2002 till 31.07.2004 is not sustainable as the applicant was receiving provisional as well as regular pension from the date of his retirement. Even otherwise also, the learned counsel for applicant has not made any grievance in this regard.

3. The other prayer which has been made by the applicant is regarding relief no. 8(ii) i.e. payment of interest on gratuity amount for a period from 22.05.2002 till 31.07.2004 when such amount was actually paid to the applicant.

4. From the material placed on record, it is evident that the applicant was acquitted by the Trial Court on 21.05.2002 by giving him benefit of doubt and the applicant was not acquitted on merit. As such the applicant in this OA has not prayed for grant of interest on gratuity

amount from the date of his retirement i.e. 30.11.1994 till the acquittal by the Criminal court vide order dated 21.05.2002. He is claiming interest of DCRG w.e.f. 22.05.2002 to 31.07.2004.

5. The respondents in the reply have categorically submitted that the representation of the applicant dated 30.06.2003 was received by the Department on 30.07.2003 and final order for permanent pension and release of DCRG was issued vide Memo No. ST-1/720/Disp/M.L. Sharma/32 dated 19.03.2004 and immediately Pension authority had issued order dated 01.08.2004 and thus there is no delay for granting the pension.

6. I have given due consideration to the submission made by the learned counsel for the parties and have gone through the material placed on record. Admittedly the representation of the applicant was received by the Department on 30.07.2003 and on that date the Department was aware that the Criminal case against the applicant has been finalized by the Court and it was incumbent upon the authorities to release the gratuity amount to the applicant immediately thereafter. Thus according to me, the amount of gratuity has become due to the applicant in any case on 30.07.2003 when the fact regarding the disposal of the criminal case was brought to the notice of the administrative authorities. Rule 68 of the Pension Rule stipulate that 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. The instructions issued by

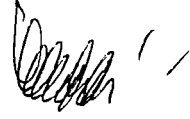


the Government of India under Rule 68 is to the effect that where the payment of DCRG has been delayed beyond three months from the date of retirement and interest at the rate applicable to GPF will be paid to the retired/dependant of the Government servant. If the matter is viewed in the light of the provision contained in Rule 68 of Pension Rule read with Government of India instructions No. 2 issued under Rule 68, it is evident that the administrative authority cannot be held liable for the payment of interest for a period with effect from 22.05.2002 till 31.07.2004 as the factum of disposal of the criminal case came to the notice of the administrative authority only on 30.07.2003 when the representation of the applicant dated 30.06.2003 was received. It was incumbent upon the administration to make the payment of the DCRG within a period of three months computing from the receipt of the representation of the applicant on 30.07.2003. In fact payment of gratuity amount was made to the applicant on 30.07.2004. Accordingly, I am of the view that the applicant has made out a case for the grant of interest at the rate applicable to GPF deposit for a period intervening from 01.08.2003 to 31.07.2004. Ordered accordingly. The respondents are directed to make the payment of the interest for the aforesaid period at the rate applicable to GPF deposit at the relevant time within a period of three months from today failing which the applicant shall be entitled to further interest @ 10% on the amount to which he shall be entitled in terms of aforesaid order in case the payment within the period of three months from today.

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



7. In view of the order passed in the OA, no order is required to be passed in MA No. 131/2010, which is accordingly disposed of accordingly.



(M.L. CHAUHAN)
MEMBER (J)

AHQ