

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 7th day of January, 2010

OA No.40/2009

CORAM:

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

Ugam Singh
s/o Shri Lal Singh,
r/o Village and Post Badlia via
Shri Nagar,
District Ajmer.

.. Applicant

(By Advoate: 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. Chief Post Master General,
Rajasthan Circle,
Jaipur-7.
3. Senior Supdt. Post Offices,
Ajmer Dn.,
Ajmer.
4. Director of Accounts (Postal),
D-1 Jhalana Doongari,
Jaipur

.. Respondents

(By Advocate: Shri V.S.Gurjar)

ORDER

The applicant has filed this OA thereby praying for quashing the order dated 16.9.2008 (Ann.A/1) whereby request of the applicant for grant of interest on pensionary benefits has been denied. The applicant has prayed that direction may be issued to the respondents to pay interest on the delayed payment of retiral benefits as per rules.

2. Briefly stated, facts of the case are that the applicant superannuated on 30.4.2002 but he was not paid regular pension/gratuity as departmental proceedings as well as judicial proceedings were pending against the applicant. In departmental proceedings the competent authority has awarded penalty of 10% reduction in pension vide order dated 22.7.2005, as such, the applicant was not fully exonerated. However, in criminal case No.2391/2000 the applicant was acquitted of offence under Section 420, 467, 468, 471, 120 -b of IPC vide judgment dated 26.4.2008. Since the applicant was not paid gratuity and other retiral benefits, he filed OA No. 07/2007, which was disposed of by this Tribunal vide order dated 8th July, 2008, when the fact regarding acquittal of the applicant in the criminal case was brought to the notice of the Tribunal. This Tribunal directed the respondents to proceed in the matter within a period of two months and the respondents have made payment of gratuity as well as commuted value of pension. Details of payment of admissible gratuity and commuted value of pension made to the applicant, as per the stand taken by the respondents, are as follows:-

Gratuity

1. Vide order dated 06.08.2008 : Rs. 1,27,235
2. Vide order dated 05.09.2008 : Rs. 14,137
3. Vide order dated 27.11.2008 : Rs. 7,376

Commututed Value of Pension

1. Vide order dated 05.09.2008 : Rs. 1,07,859
2. Vide order dated 24.11.2008 : Rs. 5,558
3. I have heard the learned counsel for the parties and gone through the material placed on record. The grievance of the applicant is that in terms of Government of India decision No.3 under Rule 68 of the CCS (Pension) Rules, the applicant is also entitled to the interest on delayed payment of gratuity as he has been acquitted in criminal charge. At this stage, it will be useful to quote Govt. of India decision No. 3, which is in the following terms:-

"3. In order to mitigate the hardship to the Government servants who, on the conclusion of the proceedings are fully exonerated, it has been decided that the interest on delayed payment of retirement gratuity may also be allowed in their cases, in accordance with the aforesaid instructions. In other words, in such cases, the gratuity will be deemed to have fallen due on the date following the date of retirement for the purpose of payment of interest on delayed payment of gratuity. The benefit of these instructions will, however, not be available to such of the Government servants who die during the pendency of judicial/disciplinary proceedings against them and against whom proceedings are consequently dropped."

On the other hand, submission made by the learned counsel for the respondents is that the applicant has not been fully exonerated in judicial/disciplinary proceedings, as such, the applicant is not entitled to any interest on delayed payment of retirement gratuity in terms of decision No.3, as reproduced above.

Besides it, the learned counsel for the respondents argued that this

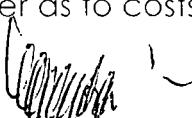
Tribunal in earlier OA i.e. OA No.07/2007 has not granted any interest on the retiral benefits although such prayer was specifically made by the applicant in the OA. According to the learned counsel for the respondents, the delay in payment of retirement gratuity and commuted value of pension was due to the disciplinary and judicial proceedings pending against the applicant.

4. I have given due consideration to the submissions made by the learned counsel for the parties. In this case facts remain that judicial as well as departmental proceedings were pending against the applicant and in the disciplinary proceedings, the applicant was not fully exonerated as he was awarded a penalty to 10% reduction of pension vide order dated 22.7.2005. Thus, the applicant cannot take any assistance of the Govt. of India decision No.3, as reproduced above, and he was not entitled to interest on delayed payment of gratuity till he was awarded penalty vide order dated 22.7.2005 in disciplinary proceedings. After 22.7.2005, gratuity could not be released to the applicant because admittedly, criminal case was pending. The applicant was acquitted in criminal case vide judgment dated 26.4.2008. Copy of this judgment has been placed on record by the applicant as Ann.A/5. Perusal of this judgment reveals that the applicant was not fully exonerated but he was given benefit of doubt. Under these circumstances, it cannot be said that the applicant was acquitted on merit or he has been fully exonerated. Thus, according to me, the applicant

cannot take assistance of Govt. of India decision No.3 under Rule 68, as reproduced above.

5. From the material placed on record, it is not clear that the applicant has made available copy of the judgment dated 26.4.2008 to the department immediately. Rather, from perusal of the judgment of this Tribunal in OA No.07/2007 reveals that certified copy of the judgment was made available to the Tribunal at the time of disposal of the matter and based upon the judgment rendered by the trial court, this Tribunal directed the applicant to submit certified/attested copy of the judgment to the appropriate authority and the respondents were directed to proceed with the matter within a period of two months. The respondents immediately thereafter made payment of substantial amount of gratuity as well as commuted value of pension to the applicant within the time allowed by this Tribunal, as already noticed above. Thus, it cannot be said that there is administrative lapse on the part of the administrative authorities in making payment of gratuity. Accordingly, I am of the view that the applicant is not entitled to any interest on delayed payment of gratuity/commuted value of pension.

6. In view of what has been stated above, the OA is bereft of merit, which is accordingly dismissed with no order as to costs.


(M.L.CHAUHAN)
Judl. Member

R/