

Central Administrative Tribunal
Principal Bench

RA No. 275/2015

in
OA No. 3865/2014

Order Reserved on: 22.04.2016
Order Pronounced on: 31.05.2016

Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Dr. B. K. Sinha, Member (A)

Neelam Arora,
Retired Sr. Auditor (SA-8307181),
Office of CDA (Funds), Meerut Cantt.
W/o Mr. S.K. Arora,
R/o 228, Sector-1,
Shastri Nagar,
Meerut-250 004 (UP)

-Applicant

(Applicant in person)

Versus

1. Union of India through Secretary,
Ministry of Defence, Govt. of India,
New Delhi.
2. The Controller General of Defence Accounts (CGDA)
CGDA Hqrs., Ulan Batar Road,
Palam, Delhi Cantt- 110 010.
3. The Controller of Defence Accounts (CDA),
(Funds), Near Head Post Office,
Meerut Cantt-250001, UP.

-Respondents

(By Advocates: Shri Rajinder Nischal)

ORDER

By Hon'ble Dr. B.K. Sinha, Member (A):

This is an Application filed under Rule 17 of CAT
(Procedure) Rules, 1987 seeking review of the order dated
17.09.2015 vide which the OA No. 3865/2014 was disposed of
with the following directions:-

“Ex-facie, the issue involved in the present Original Application is in all fours of the aforementioned order. In the wake, the OA is disposed of with direction to respondents to consider the claim of the applicant for payment of termination benefits in terms of the aforementioned judgment as expeditiously as possible preferably within eight weeks from the date of receipt of a copy of this order.”

2. The only grievance of the review applicant relates to payment of interest on the delayed payment of terminal benefits viz. Gratuity and commutation of pension which, according to the applicant, was withheld by the respondents in an illegal and arbitrary manner despite the delay being attributable to the respondents as the same was admittedly caused due to administrative grounds. The applicant has submitted that under Rule 68 of the CCS (Pension) Rules, 1972, it stands provided that if the payment of gratuity has been authorized on administrative grounds later than the date when its payment became due, interest is payable on the delayed payment of gratuity if the delay is not found attributable to the employee concerned. In support of her claim, the applicant has also relied upon the decision of the Hon'ble Supreme Court in *Y.K. Singla Vs. Punjab National Bank & Ors.* [SLP(C) No.14570/2012 decided on 14.12.2012].

3. The applicant has further relied upon the decision of this Tribunal in *U. Rai Arya Vs. Union of India & Ors.* [OA No.908/2014 decided on 18.02.2015] whereby the applicant was granted interest @ 9% per annum on all dues payable to the applicant therein on superannuation and the said order of the

Tribunal was upheld by the Hon'ble High Court of Delhi in WP(C) No.7131/2015 decided on 29.07.2015. Hon'ble High Court of Delhi in *Delhi Police Vs. Balwant Singh* [WP(C) No.1227/2012 decided on 13.03.2013) has also allowed interest @ 9% per annum on the delayed payment of leave encashment. The same view has also been taken by the Hon'ble Supreme court in *Vijay Mehrotra Vs. State of U.P. & Ors.* [JT 2000 (5) SC 171].

4. The applicant, placing reliance on the decision of Hon'ble Apex Court in *S.K. Dua Vs. State of Haryana* [2008 (3) SCC 44], submits that even in the absence of specific rules on the subject, interest on delayed payment of terminal benefits can be claimed in terms of Articles 14, 19 & 21 of the Constitution of India.

5. The respondents have filed their counter affidavit wherein they have stated that as per Decision (1) under Rule 68 of the Rules *ibid* gratuity is deemed to have fallen due on the date of Tribunal's order dated 17.09.2015. Hence no interest is payable to the applicant. Insofar as commutation of pension is concerned, the respondents have contended that Rule 4 of CCS (Commutation of Pension) Rules, 1981 provides that pension cannot be commuted during pendency of departmental/judicial proceedings against the employee. Admittedly, the applicant was facing judicial proceedings, hence no interest is payable on this count as well for the simple reason that the delay caused was on account of involvement of the applicant in criminal case.

Moreover, the applicant obtained VRS without having disclosed the fact that a NB warrant of arrest pending against him and his subsequent acquisition, which amounts to a case of breach of trust. The respondents further submitted that the decisions relied upon by the applicant are not applicable in her case as the delay in the instant case was not attributable to the respondents rather the same was due to involvement of the applicant in criminal case. Hence, the respondents prayed for dismissal of the instant review application being misconceived.

6. The applicant has also filed a rejoinder reiterating the points already taken in the Review Application.

7. We have carefully gone through the pleadings of the parties as also the rules on the subject and decisions so adduced by them. We have patiently heard the arguments advanced by the learned counsel on either side.

8. To adjudicate upon the claim of interest on delayed payment of terminal benefits, we take a note of Rule 68 of the Rules, which reads as under:-

“68. Interest on delayed payment of gratuity-

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 lapse, interest shall be paid at such rate as may be prescribed and in accordance with the instructions issued from time to time.

Provided that the delay in payment was not caused on account of failure on part of the Government servant to comply with the procedure laid down by the Govt. for processing his pension papers.”

We also take note of Rule 3 (i) (c) which provides as under:-

“In cases where the Government servant is not fully exonerated on the conclusion of disciplinary/judicial proceedings and where the competent authority decides to allow payment of gratuity, in such cases, the payment of gratuity will be deemed to have fallen due on the date of issue of orders by the competent authority for payment of gratuity. If the payment of gratuity is delayed in such cases, interest will be payable for the period of delay beyond three months from the date of issue of the above mentioned orders by the competent authority.”

9. In view of the above provision, we are of the opinion that a criminal case against the applicant is contemplated and the Tribunal's vide its order dated 17.09.2015 has directed the respondents to consider the claim of the applicant for payment of termination benefits within eight weeks. Interest would become payable to her if her dues are not paid within this period.

10. In view of our above discussion, we find that the applicant is not entitled for interest on the delayed payment of terminal benefits on account of her being involved in criminal proceedings. Accordingly, the instant review application stands dismissed with no order as to costs.

(Dr. B.K. Sinha)
Member (A)

(V. Ajay Kumar)
Member (J)