

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.905/2018

**Reserved On:26.2.2018
Pronounced On:27.02.2018**

HON'BLE MS. NITA CHOWDHURY, MEMBER (A)

Dr. M.G. Mittal
S/o Late Shri Hari Charan Das Gupta
Aged around 81 years
Retired Principal Scientist,
R/o 11/390 Sunder Vihar,
New Delhi-110087.

...Applicant

(By Advocate: Shri Ranjan Sharma)

Versus

1. Union of India through
Secretary,
Ministry of Human Resource
Development,
Shastri Bhawan,
New Delhi-110001.
2. Indian Council of Agricultural Research
Through It's Director General,
Krishi Bhawan,
New Delhi-110001.
3. Indian Agricultural Statistics Research
Institute,
Through It's Director,
Library Avenue, Puse,
New Delhi-110012.

... Respondents

(By Advocate: Shri K.M. Singh)

ORDER

This Original Application (OA) has been filed by the applicant claiming the following reliefs:-

“(i) Direct the respondents to pay interest @ 12% per annum to the Applicant on the amount of arrears of pension, i.e., Rs. 10,59,763 from 01.01.2006 till 31.12.2016;

(ii) To allow the OA with cost, if any; and

(iii) To pass such other and further orders which their Lordship of this Hon’ble Tribunal deem fit and proper in the existing facts and circumstances of the case”.

2. We may mention that the applicant had earlier filed OA No.1250/2017 claiming the same very reliefs, as claimed by him in the present OA and the said OA was disposed of by this Tribunal on 16.05.2017. The operative part of the said order reads as under:-

“5. In view of above circumstances, the OA is disposed of at the admission stage, without going into the merits of the case, by permitting the applicant to make an appropriate representation ventilating his grievances in detail, to the respondents within 2 weeks from the date of receipt of a copy of this order, and on receipt of such a representation from the applicant, the respondents shall consider the same and pass appropriate speaking and reasoned orders thereon, in accordance with law, within 90 days therefrom. No order as to costs”.

3. The facts, in brief, are that applicant is only praying for interest on arrears of pension as the same was denied by the respondents. He was working on the post of Principal Scientist in the Indian Agricultural Statistics Research Institute (IASRI) and retired from the same post on 05.01.1995. Further, he is claiming

that the pension of Pre-2006 pensioners had been wrongly fixed by the Government. This Tribunal quashed the said illegal action of the Government in OA No.655/2010 and connected matters titled as Central Government SAG (S-29) Pensioners Association through its Secretary and Others Vs. U.O.I. & Others on 01.11.2011. The said order was upheld by the Hon'ble High Court of Delhi. Pursuant thereto, pension of Pre-2006 pensioners was revised and amount of arrears of pension was released to them. Applicant's pension was also revised in the year 2016 and interest of arrears was paid to him. However, no interest has been paid on the amount of arrears so paid. Thus, the applicant has filed this second OA to claim the interest on the arrears so paid.

4. After order was passed in **OA No.1250/2017** (supra), he gave representation, which was decided by the ICAR on 20.12.2017 by passing the following order:-

"Whereas all his pension arrears w.e.f. 01.01.2006 were paid to him on 31.12.2016, therefore, no reply was given to him for his email dated 27.0.12017. It is also brought to the notice that Dr. M.G. Mittal had lodged a grievance vide registration No.DOPPW/E/2016/09320 dated 06.09.2016 in which Dr. M.G. Mittal had represented that "my service was less than 33 years hence need to be revised with effect from 01.01.2006 the same has not been revised". On receipt of the above grievance from ICAR dated 17.02.2017, the office had informed ICAR that the pension of Dr. M.G. Mittal, Ex. Principal Scientist has been revised w.e.f. 01.01.2006 by in terms of GOI, Ministry of Personnel, Public Grievances and Pensioners Welfare NO.38/37208-P&PW(A) OM dated 06.04.2016.

Now, therefore, Dr. Mittal claim for grant of interest on arrear of revised pension is concerned, it is clear that there is no delay on the part of the office as well as no provision under Government of India rules to pay interest on delay of payment of pension arrears. Recently, Government of India has announced revision of pension of pensioners on the basis of 7th Pay Commission. This arrears are due from 01.01.2016 but till date no ICAR pensioner's have been

paid the arrears and it is no known when the pension arrears will be paid to them. So keeping in view of this on the same guidelines, interest on pension arrears cannot be claimed by Dr. Mittal. Therefore, the representation of Dr. Mittal is liable to be rejected and hence his submissions not agreed to”.

5. Heard the learned counsel for the parties and perused the pleadings.

6. First of all we may mention that applicant is not entitled to any interest on the arrears paid to him in 2016, as claimed by him as the same has been decided by the respondents in detail against the applicant, vide order dated 20.12.2017. Therefore, the instant OA, is not at all maintainable on the analogy of principle of *res judicata* under section 11 in general and constructive *res judicata* in particular, as contemplated in Explanations IV and V of Section 11 of CPC. Explanation-IV postulates that **“any matter which might and ought to have been made ground of defence or attack in such former suit, shall be deemed to have been a matter directly and substantially in issue in such suit”**. Explanation-V further posits that **“any relief claimed in the plaint, which is not expressly granted by the decree, shall, for the purposes of this section, be deemed to have been refused”**. Moreover, the present second OA is hit by principle contained in Order (II) Rule 2 CPC. Relying upon the general doctrine of *res judicata*/constructive *res judicata* and power contained under Order II Rule 2 CPC, which are based on principle of natural justice, the applicant is estopped from filing the instant OA. Reliance in this regard can also be placed on

the judgments of the Hon'ble Apex Court in the cases of ***Shanker Raju Vs. U.O.I. JT 2011 (1) SC 49*** and ***U.O.I. and Others Vs. Major S.P. Sharma 2014 (6) SCC 351.***

7. Hence, applicant appears to have made an attempt to misuse the process of law. He is also guilty of concealment of facts. Thus, applicant has not come to the court with clean hands and is estopped from doing so by his own act & conduct and the OA deserves to be dismissed at the admission stage itself.

8. In the light of the aforesaid reasons, as there is no merit in the instant OA, which is hereby dismissed in limine. No costs.

(NITA CHOWDHURY)
MEMBER (A)

Rakesh