

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 2543/2013

This the 4th day of August, 2016

HON'BLE MR. V.N.GAUR, MEMBER (A)

Dr. Ajit Kumar Ray
S/o Sh.Manmohan Ray,
R/o 818, Niti Khand-1 Indirapuram
Ghaziabad (UP)-201010. ... Applicant

(By Advocate : Mr. U.Srivastava)

VERSUS

Union of India through

1. The Secretary,
Ministry of Agriculture,
Deptt. Of Agriculture & Cooperation,
Govt. of India, New Delhi.
2. The Secretary,
ICAR, Krishi Bhawan,
New Delhi.
3. The Head of Office
Indian Grass Land & Fodder Research Institute,
Jhansi. Respondents

(By Advocate: Mr. Nasir Ahmed for respondent no.1
Mr. Gagan Mathur with Sh. Varun Kumar for respondents
No.2 to 4)

O R D E R (ORAL)

The applicant in this case was re-employed pensioner under Indian Council of Agricultural Research (ICAR) (Respondent No. 2) w.e.f. 1.09.2006 at Indian Grass Land & Fodder Research Institute (IGFRI), Jhansi (Respondent No.3). He was initially appointed for a period of five years. In the meantime, the applicant applied for a post in National Institute of Technology (NIT) Agartala after getting No Objection Certificate (NOC) from

respondent no.2. The applicant started working at Agartala w.e.f. 2.07.2010. The NIT continued to insist on the applicant to submit his relieving order from his last employer. According to the learned counsel for the applicant, the reason for respondent no.3 not issuing the relieving order was a claim of overpayment to the applicant to the tune of Rs.8,58,560/- calculated as on 1.07.2010. The applicant approached the Hon'ble High Court of Allahabad seeking reliefs including a suitable direction to the respondents to issue relieving order. That petition was later transferred to the CAT, Principal Bench as OA 1633/2012. On 18.12.2012 this Tribunal passed an order directing the applicant to deposit a sum of Rs.2,50,000/- with the respondents and with regard to the balance amount, he should submit an undertaking to pay such amount as may ultimately be found to be due and payable by him on proper verification and scrutiny of the claim of the applicant. Upon submission of Rs.2,50,000/-and the undertaking the ICAR was directed to issue relieving certificate to the applicant to enable him to continue at NIT Agartala. The respondents issued the relieving order after the applicant deposited the said amount. Subsequently, respondent no.3 calculated the final settlement of the applicant including the pay arrears w.e.f 1.09.2010 to 30.06.2010 that the net amount payable to the applicant came to Rs. 1,21,360/- instead of a sum of Rs.8,58,560/- projected earlier as recoverable.

2. The respondents made a payment of Rs. 3,71,360/- to the applicant which included the amount of Rs.2,50,000 deposited by the applicant at the directions of this Tribunal vide order dated 18.12.2012. According to the learned counsel for the applicant it was due to the illegal and arbitrary action on the part of respondent no.3 that a false and inflated amount of Rs.8,58,560/- was shown as outstanding against the applicant and he was denied the relieving order making that as an excuse. On final calculation, as it turned out, it was respondents who had to pay Rs.1,21,360/- to the

applicant. Not only that, the applicant was forced by the circumstances to deposit Rs.2,50,000/- just to ensure that he was given the relieving order by respondent no.3. The applicant is, therefore, entitled for interest on these amounts that had been illegally retained by respondent no. 3.

3. The learned counsel for the respondents denied that there was any illegal or arbitrary action on their part. The applicant himself had violated the contract conditions of serving the respondent no.3 for a period of five years. He left the Institution and joined NIT Agartala without being formally relieved by respondent No.3. It was at the direction of this Tribunal that the applicant had to deposit Rs.2,50,000 and, therefore, there is no question of payment of interest on that amount by the respondents. Further it was because of the applicant joining the NIT, Agartala without being relieved that led to delay in the final settlement of his account. The applicant cannot claim interest on account of delay when the delay had occurred because of his own action.

4. I have heard learned counsels and perused the record.

5. Admittedly the applicant had left respondent no.3 organization before completion of five years in the post for which his appointment was made in the year 2006. It is also not disputed that his application for joining at NIT Agartala was submitted along with NOC from the respondent No.3. The respondents, therefore, cannot make non-completion of tenure of five years as a ground for delaying the settlement of his accounts or delaying the relieving order. The respondents have also not been able to explain as to how they came to the figure of Rs.8,58,560/- as outstanding amount when the final calculation shows that it is the respondents who owed Rs.1,21,360 to the applicant. By refusing to issue relieving order on account of false and inflated outstanding dues against the applicant the respondent no. 3 has caused unnecessary harassment and mental agony to the applicant who was working on re-employment basis with them w.e.f. 1.09.2006. There is no justification placed on record by the respondents to explain as to why

they were not able to correctly calculate the amount that was payable by the applicant. The applicant, is therefore, eligible for getting interest for the period of delay in making the payment of Rs.1,21,360/- that was withheld on a false pretext. While disputing the amount claimed by respondent No. 3 before this Tribunal on OA 1633/2012, it was the applicant who made a submission before this Tribunal on 18.12.2012 that according to him the outstanding amount payable to the respondents was to the tune of Rs. 2,50,000/-. The Tribunal on the basis of this submission directed him to deposit that amount with the respondents in the interim so that relieving order could be issued by respondent no.3. The applicant deposited that amount on 24.04.2012 on the basis of his own admission, therefore, the respondents cannot be held liable for payment of interest on that amount.

6. The OA is, therefore, disposed of with a direction to the respondents to pay the applicant interest on Rs.1,21,360 for the period from 1.10.2010 (three months after the date of being relieved from IGFI) to 26.03.2014 (date of actual payment to the applicant) at the rate of 9% per annum. This action may be completed by the respondent no.3 within a period of three months from the date of receipt of a copy of this order.

**(V.N.Gaur)
Member (A)**

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August 4, 2016