

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA NO.2185/2012

Order reserved on 12.09.2017
Order pronounced on 19.12.2017

HON'BLE MS. PRAVEEN MAHAJAN, MEMBER (A)

Dr. Satish Chandra Govil,
Aged about 63 years,
S/o Late Shri D.P. Govil,
R/o D-135, Saket Meerut,
Presently superannuated w.e.f. 30.6.2008
while last posted as Joint Director Gp 'A'
Gazetted Cadre in CGHS at Meerut.

...Applicant

(By Advocate: Mr. V.P.S. Tyagi)

VERSUS

1. Union of India through
Secretary,
Ministry of Health and
Family Welfare,
Nirman Bhawan,
New Delhi.
2. The Director General of Central
Govt. Health Scheme,
Nirman Bhawan,
New Delhi.
3. The Pay and Accounts Officer,
PAO (LHMC) and Hospital
Connaught Circus,
New Delhi-110004.

...Respondents

(By Advocate: Mr. R.N. Singh)

:ORDER:

The current OA has been filed by the applicant seeking the following reliefs:-

- “(a) Quash and set-aside the impugned Order (A-1) with directions to the Respondents to make payment of the interest on the

remaining items of arrears relating to pensionary dues as shown above on a/c of delayed payment of the applicants pensionary benefits which includes Leave encashment, DCRG, Arrears of pension on Revision as per 6th CPC, Commuted value of Pension as shown above @ Rs.18% p.a. to be workout for complete 2½ years period.

- (b) Pass any order or directions as deemed just and proper in the facts and circumstances of the case.
- (c) Award exemplary cost against the Respondents to be paid in favour of the applicant causing him undue hardship being a retiree."

2. Briefly stated, facts of the case are that the applicant retired from Government Service as Joint Director in CGHS Meerut on 30.06.2008. He was charge-sheeted under Rule 14 of CCS (CC&A) Rules, 1965 for imposition of major penalty on 27.06.2008 issued by the Ministry of Health and Family Welfare. The charge against him was that he caused a loss of Rs.80.56 lakhs by not properly scrutinizing the claims of private empanelled hospitals under CGHS, Meerut and passed the claims without restricting them at the approved package rates.

3. The retirement benefits of the applicant were held up on account of pending disciplinary proceedings, as indicated above. The applicant, in response to the charge-sheet, refuted all the charges in his written statement of defence. After examining his defence statement available on record, the Competent Authority closed the proposed disciplinary proceedings against the applicant on 24.09.2010. The CGHS was directed to release all dues that might have been kept pending on account of the disciplinary proceedings.

4. The retirement dues were paid to the applicant in two installments i.e. the gratuity of Rs.3.5 lakhs in November, 2010 and the balance amount of Rs.6.5 lakhs in December, 2010.

5. The applicant filed OA No.4564/2011 before the Tribunal for the payment of interest on delayed payment of pensionary benefits including leave encashment, DCRG, arrears of pension on revision of pension as per 6th Pay Commission Recommendations and commuted value of pension at 18% per annum for a period of two and half years.

6. On 21.12.2011, the Tribunal directed the respondents to consider the representation of the applicant by treating the aforesaid OA as a supplementary representation and to pass appropriate order in respect of the claim of the applicant for grant of interest on delayed payment of his retirement dues, in accordance with the applicable rules, in a time bound manner.

7. The applicant submits that the delayed payment was made in respect of the following pensionary benefits:-

1.	DCRG	Rs.Ten lacs	Delayed payment 2½ Yr. (Interest Allowed for Part period only)
2.	Arrears of Pension on Revision applicable wef 1.1.2006 (6 th Pay Revision)	Made applicable w.e.f.1.7.2008	Delay of 2½ years. No interest is paid
3.	Leave encashment	Rs.800389/-	Delay for 2½ Yr. No interest is paid.
4.	Commuted value of Pension	Rs.15,51,366	Delay for 2½ Yr. No interest is paid.

He states that the respondents are liable to make payment of interest @ Rs.18% per annum on the above dues as claimed by him. The applicant has placed reliance on order dated 03.05.2002 in OA No.1952/2001 of Central Administrative Tribunal, Principal Bench.

8. Per contra, the respondents state that the directions of this Tribunal were considered by the department in consultation with Integrated Finance Wing of the Ministry and Chief Controller of Accounts and relevant provisions under CCS (Pension) Rules, 1972. As per CCS (Pension) Rules, 1972, the pension, commuted value of pension and Death-Cum-Retirement Gratuity (DCRG) are alone considered as the retirement dues. As per the provisions contained in Government of India's decision No.5(2) below Rule 68 of CCS (Pension) Rules, 1972, no interest is payable on the delayed payment of pension/commuted value of pension. In addition to this, the provisions contained in Government of India's Decision No.5(2)(1) stipulate that in the matter of delayed payment of leave encashment, there is no provision under CCS (Leave) Rules for payment of interest on the delayed payment of leave encashment, which is a benefit granted under leave rules, and is not a pensionary benefit.

9. In the instant case, only interest on delayed payment of gratuity, beyond three months, is admissible at GPF rates in accordance with the Government of India's Decision No.1 read

with Government of India's Decision No.2 below Rule 68 of CCS (Pension) Rules, 1972.

10. In terms of the provisions contained in CCS (Pension) Rules, 1972, interest was sanctioned to the applicant on delayed payment of gratuity beyond three months from the date of retirement up to the end of the month preceding the month in which gratuity/arrears of gratuity was paid i.e. interest on the gratuity amount of Rs.10,00,000/- at the rates applicable to GPF for a period of 25 months from 01.10.2008 to 31.10.2010 and interest on Rs.6,50,000/- for one month from 01.11.2010 to 30.11.2010.

11. The applicant has filed a rejoinder making averments already made in the OA and pressing his claim for payment of interest for the delay in payment of his retiral benefits. He submits that the contention of the respondents is wrong. It is a well settled principle of law that the pension, as well as the commuted value of pension, are the property rights of the entitled claimant. If unreasonable delay occurs in release/payment of such benefits, interest is bound to be paid. No rule permits withholding of leave encashment, which is a benefit granted under the leave rules and is also a property right of the entitled claimant. The applicant became entitled for a sum of Rs.800339/-(due to be paid on 1.7.2008), which was paid after

delay of about 2½ years in November and December, thus he is entitled to interest thereon.

12. I have carefully gone through the facts of the case as well as perused the pleadings on record.

13. The preliminary objection raised by the respondents is that the pleas taken by the applicant in the current OA are hit by *res judicata* since these are similar to the one raised by him, in the OA No.4564/2011. On going through the order dated 21.12.2011 passed in OA No.4564/2011, I find that the application filed by the applicant was disposed of at the admission stage itself. The learned judicial member, in para-6 of the order, had observed that:-

"6. Having regard to the nature of prayer made by the applicant's counsel, as aforesaid, it is considered expedient to dispose of this Application at the admission stage itself without issuing notice to the opposite party since I am neither going into the merits of the case nor recording any findings on the facts or law to the prejudice of the respondents. In these premises, the respondents are directed to consider the applicant's representation referred to above, taking present OA also as a supplementary representation, and pass an appropriate order thereon in respect of claim of the applicant for grant of interest on delayed payment of his retiral dues within a period of two months from the date of receipt of certified copy of this order. In case, the applicant's request is acceded to by the respondents, he be released the admissible amount on delayed payment of his retiral dues in accordance with applicable rules within the period stipulated hereinabove. In case, the respondents decide otherwise on the applicant's representation for any reason, referred to above, he be informed of the respondents' decision through a reasoned and speaking order within the same period of two months from the date of receipt of a certified copy of this order."

14. Since, the said OA was not decided on merits, the current OA, therefore, cannot be said to be hit by principles of *res judicata*.

15. The undisputed facts of the case are that the applicant retired from service of the respondents on 30.06.2008. He was served a memorandum of charge under Rule 14 of the CCS (CCA) Rules, 1965, just three days prior to his retirement. On 17.07.2008, the applicant submitted his statement of defence. It took the respondents more than two years (i.e. 24.09.2010) to close the proceedings initiated against him. Thereafter, a direction was issued to CGHS to release his pending dues which had been withheld pending the inquiry. The payment of pensionary benefits on account of revised pension etc. was made to the applicant in the November – December, 2010.

16. It is not denied by the respondents that the retirement benefits of applicant on account of pending enquiry were withheld. It is also not disputed that retiral dues have been paid in two installments, i.e. in November – December, 2010. The logical deduction, therefore, is that had the entitled retirement benefits been paid to the applicant, at the appropriate time (on superannuation on 30.06.2008), he could have earned interest on the same. The respondents cannot deny the fact that the applicant has been put to grave financial loss for no fault of his. Though the interest has been sanctioned to the applicant on

delayed payment of gratuity as per rules, interest on leave encashment has been denied on the ground that there is no provision for granting interest on delayed payment of leave encashment, commuted of value of pension etc.

17. In this case, I feel that the applicant has been meted out a rather rough treatment by the respondents. While acknowledging the delay in payment of retiral benefits, the interest component should also have been addressed by the respondents. The applicant has waited far too long to receive his rightful dues. A retired Government servant cannot be permitted to languish in penury by respondents holding back his rightful dues, for the delay or inaction of the Investigating Agency.

18. In view of the facts of the case, the OA is allowed and impugned order dated 21.02.2012 is quashed. The respondents are directed to pay interest to the applicant, as prayed for in the OA, on the delayed retirement dues, except commuted value of pension since the applicant was drawing provisional pension. The interest should be calculated at GPF rates from the date when the above payment became due to the applicant till the date of their actual release by the respondents. This exercise should be completed within three months from the date of certified copy of this order. No costs.

(PRAVEEN MAHAJAN)
MEMBER (A)

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