

**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.**

ORIGINAL APPLICATION NO.531 OF 2018

Date Of Decision:- 06.09. 2018.

CORAM: HON'BLE SHRI. R. VIJAYKUMAR, MEMBER (A).

Vishvas Krishnaji Walkem I.F.S. (Retd.)

Aged 74 years,
Ex. Deputy Conservator of Forest,
(R/at: S. No.183, Walke Mala,
Alandi Road, Bhosari, Pune 39.*Applicant*
(*Applicant by Advocate Shri. S.P. Saxena*)

Versus

1. The Union of India,
Through Secretary,
Ministry of Forest and Environment
New Delhi 110003.

2. State of Maharashtra
Through the Secretary,
Dept. of Revenue and Forest,
Mantralaya, Mumbai 400032.

3. Union Public Service Commission
Through the Secretary,
Dholpur House, Shahjahan Road,
New Delhi 110069.*Respondents*
(*Respondents by Advocate Shri. V.S. Masurkar*)

ORDER (ORAL)

This application filed on 27.11.2017 by the applicant under Section 19 of the Administrative Tribunals Act 1985 seeking following reliefs:-

“8(a). To allow the Original application,

(b). To hold and declare that, the applicant is entitled for interest at the rate of 12% on the amount of gratuity of Rs.3,50,000/- from 01.01.2004 till July 2017,

(c). To direct the respondents to pay interest on the gratuity amount and also on the amounts of arrears of revised pension pension w.e.f. 01.01.2006 till these are actually paid in July 2017.

(d). To pass any other order in the facts and circumstances of the case,

(e). To award the cost of application.”

2. The applicant was paid provisional pension and gratuity was withheld pending disposal of two disciplinary proceedings involving financial matters and these two disciplinary proceedings ended with exoneration in orders of the Respondent No.2 in order No.AFO-1300/CR-407/F-7 dated 12.07.2012 and order in Notice No. AFO-1302/CR-13/F-7 dated 28.07.2016. In the latter case, the State Government considered the delay in the proceedings and disposed the case expressing displeasure in respect of negligence on the part of the applicant.

3. The applicant has sought interest on the delayed payment of gratuity and on the arrears of pension arising from refixation following 6th Pay Commission which was subsequent to his retirement.

4. The respondents have argued that the Respondent No.2 took up the issue with the Respondent No.1 in 2010 and after Respondent No.2 took notice of the office memorandum F.No.38/37/08-P&PW(A) dated 21.08.2013 and based on these instructions, revised the pension drawn by the applicant, and

paid him arrears by orders dated 28.05.2014 (Annexure R-6).

The amount was disbursed in July 2014 (Annexure R-7). In respect of gratuity, the respondents have stated that they are willing to pay the interest on delayed payment of gratuity as per statute.

5. Today, when the case was called for hearing, heard Ms. Annie Nadar, learned proxy counsel appeared on behalf of Shri.S.P. Saxena, learned counsel for applicant and Shri. V.S. Masurkar, learned counsel for respondents.

6. Heard learned proxy counsel for applicant and learned counsel for respondents in the absence of the arguing counsel for the applicant. Pleadings have been carefully perused. It is apparent that the pensioner's case for refixation of pensioner's pension by reference to the 6th Pay Commission recommendations has been done based on orders by Respondent No.1 in the OM dated 28.01.2013 and for which, they had, even three years earlier, sought clarification. There does not appear to be any significant delay.

7. In respect of gratuity, considering that the disbursement of gratuity is governed by a specific statute which provides for interest and a method for calculation of interest.

8. The applicant has asked for 12% interest which is perhaps in excess of provisions of statute but has not given any reason or any alleged *mala fide* other than arguments that he was

exonerated in the two disciplinary proceedings in the case. It is also noted that the second disciplinary proceedings recorded the fact of grave delay in proceedings and expressed displeasure, although not a punishment under the AIS Rules. This would also therefore, have to be considered as an exoneration. However, considering the fact that no other basis is urged, it is appropriate to direct the respondents to compute the interest on the delayed payment of gratuity due to the applicant in accordance with statute from the date of retirement and disburse the same to him within 12 weeks of receipt of certified copies of these orders.

9. In the circumstances, the OA is disposed of as above with no order as to costs.

(R. Vijaykumar)
Member (A)

srp