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CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

O.A/350/681/2018

Date of Order: 11.4.19

Coram: Hon'ble Ms. Bidisha Banerjee, Judicial Member

Smt. Anuradha Mitra, widow of Late Biplab Kumar Mitra, aged about 71 years, residing at 39, Old Calcutta Road, Bank Park, P.O. Talukpur, Barrackpore, Kolkata - 700123.

---Applicant

-Versus-

1. Union of India, service through the General Manager, Eastern Railway, 17, Netaji Subhas Road, Kolkata - 700001.
2. The Chief Personnel Officer, Eastern Railway, 17, Netaji Subhas Road, Kolkata - 700001.
3. The Chief Works Manager, Eastern Railway, Kanchrapara Workshop, P.O. Kanchrapara, Dist. 24 Parganas (North)
4. The Workshop Personnel Officer, Eastern Railway, Kanchrapara Workshop, P.O. Kanchrapara, Dist. 24 Parganas (North)
5. The Deputy Chief Accounts Officer (W), Kanchrapara, P.O. Kanchrapara, Dist. 24 Parganas (North)

---Respondents

For the Applicant(s): Mr. B. C. Deb, counsel

For the Respondent(s): Mr. A. K. Banerjee, counsel

ORDERPer: Ms. Bidisha Banerjee, Judicial Member:

This application has been preferred to seek the following relief:

- "a) Direction upon the respondents to pay at least @12% compound interest p.a on arrears of pension money Rs. 2,74,400/- with effect from 5/1981 to till the date of actual payment i.e on October 2014 and arrears of family pension of Rs. 5,30,886/- with effect from 20.02.2005 to June 2014 till the actual payment i.e on July 2014.
- b) Any order and/or further order or orders as the Hon'ble Tribunal may deem fit and proper."

2. The applicant had earlier preferred O.A 1105/2015 seeking the following relief:

"a) Direction upon the respondents to pay at least @12% compound interest p.a on arrears of pension money Rs. 2,74,400/- with effect from 5/1981 to till the date of actual payment i.e on October 2014 and arrears of family pension of Rs. 5,30,886/- with effect from 20.02.2005 to June 2014 till the actual payment i.e on July 2014.

b) Any order and/or further order or orders as the Hon'ble Tribunal may deem fit and proper."

The Bench hearing out the matter had ordered as under:

" 3. The Ld. Counsel for the applicant would submit that 12% interest per annum should have been paid by the respondent authorities as per law but it was not paid to the legal heir of the deceased employee even though the pension was paid belatedly.

4. The ld. Counsel for the respondents would categorically and clearly pointed out that such interest was paid. He would draw the attention of this court to Annexure A-15 (Page 49 of O.A) which is extracted hereunder for ready reference:-

"Instructions were issued vide Board's letter No. F(E)III/94/PN1/28 dated 01.11.1994 inter alia providing that where the payment of DCRG has been delayed beyond 3 months from the date of retirement, interest at the rate applicable to SRPF deposits (then 12 per cent per annum, compounded annually) will be paid to retired dependents of deceased Railway servant. Subsequently, instructions were issued in supersession of earlier instructions dated 01.11.1994 vide Board's letter of even number dated 27-06-2002 wherein the provision for payment of interest on delayed payment of DCRG was simply reiterated without mentioning therein the words 'compounded annually'."

2. In this regard, a point has been raised under RTI Act, 2005 as to whether the manner of calculation of interest on delayed payment of gratuity has been changed from 'compound' to 'simple interest' consequent upon issue of Board's letter dated 27-06-2002. Since Board's aforementioned instructions were based on the corresponding instructions issued by the Department of Pension and Pensioner's Welfare, the matter has been examined in consultation with that Department and it is clarified that there is no change in the manner of calculation of interest on delayed payment of gratuity i.e interest should be calculated at the rate applicable to SRPF deposits compounded annually.

3. The Zonal Railways etc. are advised that past cases, where simple interest has been paid, may be re-opened and the difference between simple interest and compound interest may be paid."

As such, we could see that absolutely there is no controversy relating to payment of interest. On the other hand, the Railway Authority would point out that through bank that amount was paid whereas the Applicant's advocate said that no such interest was paid.

5. It is a matter of simple verification. There is no law point to be decided. Hence we pass the following direction:-

Along with a copy of this order the applicant shall appear before Respondent No. 5 and the Respondent No. 5 shall direct an official under him who is thorough with this account, to explain to the applicant actually what happened in this case. Despite that if the applicant is dissatisfied, she is at liberty to file a fresh O.A."

3. The applicant aggrieved with non payment of interest was constrained to move a contempt application which was disposed of on 06.04.2018 in the following manner:

"2. After hearing in-extenso, we find that no contempt exists as on date.

3. Hence, the Contempt Petition is dropped. Notices, if any, issued are discharged

4. However, the petitioner is at liberty to file a fresh O.A., if so advised."

4. Emboldened by the liberty, the applicant has preferred this O.A. He has relied upon the following circulars extracted *in extenso*:

i) OM, dated 05.10.99, issued by Ministry of Personnel, Public Grievances & Pensions (Department of Pension & Pensioners' Welfare) on implementation of recommendations contained in para 61 of 44th Report of Parliamentary Standing Committee on Ministry of Home Affairs Time Schedule for disbursement of Pension-regarding, which reads as under:

"2. As per CCS (Pension) Rules, 1972, no interest is payable on delayed payment of pensions/ commuted value of pension. However, the above recommendation of the Committee on delayed payment of retirement dues has been examined in this Department in consultation with Department of Personnel & Training and Department of Expenditure, Ministry of Finance and it has been decided to implement the recommendation as detailed below:-

a) All pensioners dues are to be settled by strictly following the procedures laid down in Rules 56 to 76 of CCS (Pension) Rules, 1972,

(b) Wherever delays are anticipated provisional pension should be sanctioned immediately.

c) Any delay in processing of pension resulting in pension not being authorized on the last working day of retirement of the government servant, should be reported by the Head of Office to the next higher authority who would watch the settlement of delayed cases.

(d) In respect of delayed payment of gratuity wherever it results in payment of penal interest at the rate applicable to GPF deposits (at present 12% per

annum compounded annually) under Rule 68 of CCS(Pension) Rules, 1972. Secretary of the Administrative Ministry or Department would initiate action to fix responsibility at all levels to recover the amount from the concerned Dealing Official, Supervisor and Head of Office in proportion to their salary by following the prescribed procedures for the purpose. This should be strictly enforced with immediate effect.

(e) Once it has been decided to pay gratuity the amount should be paid immediately pending a decision regarding payment of interest. This would reduce the interest liability if any on payment of delayed gratuity.

(f) In the matter of delayed payment of leave encashment, Department of Personnel & Training in their note dated 2.8.99 has clarified that there is no provision under CCS (Leave) Rules for payment of interest or for fixing responsibility. Moreover, encashment of leave is a benefit granted under the leave rules and not a pensionary benefit.

g) In the matter of CGEGIS, the Department of Expenditure, Ministry of Finance in their U.O. No. 709/EV/99 dated 6.8.99 has clarified that payments under CGEGIS cannot be termed as terminal benefit. As payments under this Scheme are made in accordance with the Table of Benefit which takes into account interest upto the date of cessation of service, no interest is payable on account of delayed payments under the scheme. They have also clarified that CGEGIS payment cannot be withheld and no Government dues can be recovered from the accumulation except the amount claimed by the financial institution as due from the employee on account of loans taken for house building purpose."

ii) OM dt. 1.5.12 issued by Ministry of Personnel, PG & Pensions Department of Pension & Pensioner's Welfare (Desk-I) that stipulates as under:

"2. Rule 68 CCS (Pension) Rules, 1972 provides for payment of interest on delayed payment of gratuity and recovery of interest so paid from the officers responsible for such delay. The recommendations of the Committee on delayed payment of retirement dues was examined in this Department in consultation with Department of Personnel and Training and Department of Expenditure, Ministry of Finance and it was decided to implement the recommendations as below:-

- (i) All pensioners' dues are to be settled by strictly following the procedure laid down in Rule 56 to 76 of CCS (Pension) Rules, 1972.
- (ii) Wherever delays are anticipated, provisional pension should be sanctioned immediately.
- (iii) Any delay in processing of pension resulting in pension not being authorized on the last working day of retirement of the retirement of the Government servant, should be reported by the Head of Office to the next higher authority who would watch the settlement of delayed cases.
- (iv) In respect of delayed payment of gratuity wherever it results in payment of penal interest at the rate applicable to GPF deposits under Rule 68 of CCS

(Pension) Rules, 1972, Secretary of the Administrative Ministry or Department would initiate action to fix responsibility at all levels to recover the amount from the concerned Dealing Official, Supervisor and Head of Office in proportion to their salary by following the ~~prescribed~~ ^{provision} for this purpose and should be strictly enforced.

(v) Once it has been decided to pay gratuity, the amount should be paid immediately pending a decision regarding payment of interest. This would reduce the interest liability if any on payment of delayed gratuity.

(vi) In the matter of delayed payment of leave encashment, the Department of Personnel & Training in their note dated 2.8.1999 had clarified that there was no provision under CCS (Leave) Rules for payment of interest or for fixing responsibility. Moreover, encashment of leave is a benefit granted under Leave Rules and not a pensionary benefit.

(vii) In the matter of CGEGIS, the Department of Expenditure, Ministry of Finance in their UO No. 709/EV/1999 dated 6.8.1999 had clarified that payment under CGEGIS cannot be termed as terminal benefit. As payment under this Scheme are made in accordance with the Table of Benefit which takes into account interest upto the date of cessation of service, no interest is payable on account of delayed payments under the scheme. They had also clarified that CGEGIS payment cannot be withheld and no Government dues can be recovered from the accumulation except the amount claimed by the financial institution as due from the employee on account of loans taken for house building purpose.

3. The above recommendations were circulated among all Ministries/Departments vide this Department's OM No. 38/64/98-P&PW(F) dated 5th October 1999. However, it is noticed that all Ministries/ Departments are not strictly following the above instructions. The above instructions provide that wherever delays are anticipated, provisional pension should be sanctioned immediately. Thus, in case where regular pension is not authorized at the time of retirement, provisional pension should invariably be sanctioned. In spite of these instructions, there have been instances where payment of pension (regular or provisional) is not authorized at the time of retirement. In some cases, the administrative departments have been directed by the Central Administrative Tribunal/Court to pay interest for delay in payment of pension and a number of proposals for payment of interest of delayed pensionary benefits is being forwarded to Department of Pension and Pensioners Welfare. Therefore, it is reiterated that all the Ministries/Departments should strictly follow the above recommendations communicated vide this Departments OM dated 5.10.1999.

4. The Ministries/ Departments may circulated this OM among the concerned attached/subordinate/field organizations under the administrative control of the respective Ministry/Department for strict compliance."

iii) O.M dt. 6.11.08, issued by Railway Board that enjoins:

"2. In this regard, a point has been raised under para 34, 2008 as to whether the manner of calculation of interest on delayed payment of gratuity has been changed from 'compound' to 'simple interest' consequent upon issue of Board's letter dated 27-06-2002. Since Board's aforementioned instructions were based on the corresponding instructions issued by the Department of Pension and Pensioners' Welfare, the matter has been examined in consultation with that Department and it is clarified that there is no change in the manner of calculation of interest on delayed payment of gratuity i.e interest should be calculated at the rate applicable to SRPF deposits compounded annually.

3. The Zonal Railways etc. are advised that past cases, where simple interest has been paid, may be re-opened and the difference between simple interest and compound interest may be paid."

5. Apart from the aforesaid circulars, it is noticed that interest on delayed payments have been allowed in the following matters:

- i) S.K. Dua -vs- State of Haryana & Anr 2008(3) SLJ 108
- ii) Suresh O Shah -vs- State of Gujarat Spl. Civil Application 220/03 (High Court)
- iii) Bhailal Mahibhai Patel -vs- UOI (2014) 2 SLJ 22 (CAT)
- iv) OA.2832/12(2015) 2 A SLJ (CAT) 405.

In view of the aforesaid enumerations, as it appears that claiming interest on delayed payment of settlement dues of her husband is her legal right, the O.A is disposed of with a direction upon the respondents, to consider her claim in accordance with the circulars extracted and decisions supra, work out on payable interest and pay the amount to her within 2 months without further delaying the matter.

6. O.A accordingly stands disposed of. Costs of Rs. 5000/- as litigation expenses be paid to the applicant by the concerned respondents, to be realised from their officer who is responsible for the delay in tendering payments.

(Bidisha Banerjee)
Member(J)