

**Central Administrative Tribunal
Principal Bench**

RA No.71/2019
In
OA No. 4583/2017

New Delhi this the 12th day of March, 2019.

Hon'ble Mr. Pradeep Kumar, Member (A)

Hukam Singh,
S/o late Shri Diwan Singh,
R/o Flat No.F-3/4,
Indraprastha Apartment,
Near Canara Bank Sant Nagar Burari,
Delhi-84.

-Applicant

-Versus-

1. Govt. of NCT of Delhi,
Through its Chief Secretary,
I.P. Estate, Delhi Secretariat,
New Delhi.
2. Deputy Controller of A/c (Fund),
Govt of NCT of Delhi
Near Metcalf House,
Vikas Bhavan-II, Civil Lines,
Delhi-54.

-Respondents

ORDER (By Circulation)

In the instant case the applicant was serving Delhi Police. There were certain allegation of bribery under Section 7 of Prevention of Corruption Act against the applicant and a criminal case was lodged in the year 2005. In addition, one departmental case was also initiated.

In the criminal case applicant was acquitted vide orders dated 21.12.2012 passed by the Tis Hazari Court, Delhi. Thereafter the prosecuting agency, namely CBI preferred an appeal before the Hon'ble High Court of Delhi. However, this appeal was dismissed on 19.08.2014. Thereafter the departmental proceedings, which were already initiated against the applicant in the same case, were also dropped on 06.05.2015.

Meanwhile, the applicant had retired from service on 31.08.2012 on attaining the age of superannuation.

2. While the applicant was in service, he was put under suspension on account of the said PCA case during the period 04.10.2005 to 31.08.2012 and he was paid subsistence allowance during this period. Once the PCA case was closed and departmental case was also dropped, suspension period was treated as spent of duty. Full salary was calculated for this suspension period and settlement dues payable as well as the deductions for PF were also calculated. The deductions for PF were credited to the PF account. Thereafter, all these payments for GPF, amounting to Rs.9,22,269/-, were released on 09.09.2015.

The applicant had pleaded that these GPF payments were actually due when he had retired on 31.08.2012 and accordingly interest for the period 01.09.2012 to 09.09.2015 should also be paid.

3. Once this request was not entertained by the respondents, the applicant had filed OA No.4583/2017, which was decided on 18.12.2018. It was decided that the amount of Rs.9,22,269/- was due to the applicant as of three months after the date of superannuation, as it takes about three months' time to work out the retiral dues, i.e., on 01.12.2012. Since it was actually paid on 09.09.2015, it was taken that the applicant was denied use of this money for this period, he was granted interest at GPF rates for the period 01.12.2012 to 09.09.2015.

4. The respondents vide RA-71/2019 have sought review of these orders. The respondents have now pleaded that actual contribution to PF had not taken place in the months when he was under suspension as for such months he was paid subsistence allowance only and PF deductions were not made. The due PF deductions were made only later when the departmental case was dropped on 06.05.2015 and these amounts were credited to the PF account at that stage only and as such the same has not earned any interest right from

the month it was to be deducted till it was actually deducted and credited to PF account. It was only three to four months later to actually crediting it, that the entire amount was paid back and as such interest was neither earned nor is it payable.

5. The respondents have also brought out that this aspect has been examined by the DDO Branch as well as Ministry of Home Affairs also and the interest is not payable. Therefore, review has been sought to the Tribunal orders dated 18.12.2018.

6. The matter has been reviewed. It may be true that during the months the applicant was under suspension the actual contributions to PF were not made. However, the applicant was acquitted in the PCA case on 21.12.2012 whereas he had already superannuated on 31.08.2012. It was thus absolutely necessary that an expeditious decision is taken in the departmental case also. However, the same was taken much later, perhaps on account of pending appeal by CBI in Hon'ble High Court.

However, it is the Tribunal's view that once the departmental appeal in Hon'ble High Court was dismissed, the applicant cannot be made to suffer the damages on

account of delay in release of his dues and especially of PF dues.

7. It cannot be denied that the payments due to the applicant as of 31.08.2012 amounts to Rs.9,22,269/- as the monthly contribution to PF pertains to earlier period even though credited after dropping the departmental case, and this amount was actually released on 09.09.2015. The interest ordered by the Tribunal is on account of this delay post retirement and not for the months when PF contributions were actually due but were not made.

8. In view of the foregoing, no change is warranted. The RA is dismissed.

(Pradeep Kumar)
Member (A)

‘San.’