

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Thursday 13th day of December Two Thousand And Eighteen

PRESENT:

THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

O.A. 310/1657/2017

A. Mohammed Musthaffa Kamal,
No. 50, Ellaiammankoil Street,
Puducherry- 605 001..

....Applicant

(By Advocate: M/s. S. Arun)

Versus

1. Union of India Rep. by
The Secretary to Govt. (Finance),
Chief Secretariat,
Puducherry- 605 001;
2. The Under Secretary to Govt. (Finance),
Chief Secretariat,
Puducherry- 605 001;
3. The Director of Accounts and Treasuries,
-cum- Examiner (LFA),
DAT Complex, Kumargurupallam,
Puducherry.

...Respondents

(By Advocate: Mr.R. Syed Mustafa)

O R A L O R D E R

(Pronounced by Hon'ble Mr. R. Ramanujam, Member (A))

Heard. Applicant has filed this O.A. seeking the following reliefs:-

"i) to quash the proceedings of the 2nd respondent in I.D. Note/Memorandum No. 11701(2)/F2/A2/2011 (1st impugned order) dated 21.06.2017 in so far as not granting interest for encashment of Earned Leave,
ii) To quash the proceedings of the 3rd respondent in Order No. DAT/Estt/U.III/PF/2017/2096 (2nd impugned order) dated 19.07.2017 in so far as not granting interest for encashment of Earned Leave;
iii) Consequentially direct the 2nd respondent to grant the applicant, interest for his encashment of Earned Leave from 01.01.2012 within a period stipulated by this Hon'ble Tribunal;
iv) and pass such further or other orders as may be deemed fit and proper in the facts and circumstances of the case and thus render justice."

2. It is submitted that the applicant superannuated from service on 31.12.2011. The payment of his Earned Leave encashment was withheld till 19.07.2017 when the impugned order was passed sanctioning the applicant pay and allowances for 300 days of Earned Leave at his credit @ Rs.44,193/- per month. While there is no grievance *per se* regarding the order, it is submitted on behalf of the applicant that the applicant is also entitled to interest for the period of delay as the delay occurred for no fault of his.

3. Although no reply has been filed by the respondents, learned counsel appearing for the respondents would submit that the applicant had not been granted vigilance clearance as on the date of his superannuation. A case of tampering with the date of birth by the applicant was pending in the Vigilance Section which was subsequently closed. However, while intimating the decision by impugned communication dated 21.06.2017, the Finance Department also informed that there was a 'helmet' case registered by the CBI (ACB) against the applicant which was pending trial before the Court of Special Judge, Madras. Meanwhile, the co-accused in the said case had filed discharge petition before the Hon'ble High Court of Judicature of Madras in Crl R.C. No. 1358 of 2014 in which the court had observed that there was no loss to the exchequer. Accordingly, the leave salary due to the co-accused as well as the applicant were released. The question of payment of interest would not arise as there was no provision in the rules for payment of interest. Besides, it was not the respondents' fault as during the pendency of the criminal case, the applicant was not entitled to payment of all benefits. It is also submitted that the criminal case before the Trial Court is still pending.

4. I have considered the matter. It is not in dispute that the vigilance case and a criminal case were pending against the applicant on the relevant dates on account of which his Earned Leave encashment was delayed. It is not, therefore, possible to hold that the delay in the matter

was entirely attributable to the respondents and the applicant should be paid interest on account of such delayed payment. As there is also no provision in the rules for payment of interest, a direction for payment of interest would not be justified in such circumstances.

5. The OA is dismissed as devoid of merits. However, the applicant is at liberty to submit a fresh representation to the competent authority for payment of interest should he be held innocent in the pending criminal case. No costs.

(R. RAMANUJAM)
MEMBER (A)

Asvs.

13.12.2018