

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

OA No. 157 of 2017

Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)

Bhabani Mandal, aged about 56 years, W/o Late Anil Kumar Mandal, residing At/Post-Badpalsa, Via-Bahalda, PS-Tiring, Dist.- Mayurbhanj.

.....Applicant

VERSUS

1. Union of India, represented through its Director General of Posts, Ministry of Communications, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110001.
2. The Chief Post Master General, Odisha Circle, Bhubaneswar, Dist-Khurda, Pin-751001.
3. Superintendent of Post Offices, Mayurbhanj Division, Baripada, Mayurbhanj.
4. The Director of Accounts (Postal), Mahanadi Vihar, Cuttack-4.

.....Respondents.

For the applicant : Mr.D.K.Mohanty, counsel

For the respondents: Mr.C.M.Singh, counsel

Heard & reserved on : 13.9.2019 Order on : 25.9.2019

ORDER

Per Mr. Gokul Chandra Pati, Member (A)

The applicant has filed the present OA seeking the following reliefs :

- "(i) To quash the order dt. 13.2.2017 under Annexure A/6.
- (ii) To direct the respondents to pay 18% interest on the delayed payment of higher pension w.e.f. 19.11.2012 to 18.11.2015 which was disbursed on 5.9.2016 of amounting of RS.1,53,757/- with immediate effect;
- (iii) To pass any other order/orders as deem fit and proper in this case."

2. Heard learned counsel for the applicant. He submitted that the applicant is aggrieved by the order dated 13.12.2017 (Annexure A/6) by which her request for payment of interest on the delayed disbursement of the arrears of differential family pension for the period from 19.11.2012 to 18.11.2015, which was disbursed to the applicant after a delay on 5.9.2016, has been rejected. The rejection order has been passed on the ground that the respondents are not responsible for delay in payment of arrears of family pension as per CCS (Pension) Rules, 1972. Learned counsel for the applicant further submitted that although the applicant should have been paid the higher family pension for 10 years with effect from 1.1.2006 in place of 7 years earlier, but it was not

done. It is further submitted that the revision was on account of 6th CPC recommendations w.e.f. 1.1.2006 by which the enhanced family pension at the rate of Rs.6358/- per month was payable for a period of 10 years in place of 7 years from the date of death. Although the revision of pension was sanctioned and was payable from 19.1.2012 when her family pension was reduced after completion of 7 years from death of her husband, but it was not paid till 5.9.2016, when arrear pension amount of Rs.1,53,757/- was disbursed to the applicant. Thereafter, the applicant submitted the representation dated 3.12.2016 (Annexure A/5), which was rejected by impugned order dated 13.12.2017. Learned counsel for the applicant also filed a copy of the order of the Tribunal dated 3.1.2019 passed in a similar case in OA 491/2012 in which the interest on delayed payment of the differential pension and gratuity @ 9% per annum was allowed.

3. Per contra, learned counsel for the respondents submitted that in the judgment cited by applicant's counsel in OA No. 491/2012, the facts were different. It is stated that the enhanced family pension was paid till 18.11.2012 i.e. 7 years after death of the applicant's husband on 18.11.2005 vide the copy of the order at Annexure R/3 of the counter. Then it was paid at reduced rate. But as per the recommendation of the 6th CPC, higher family pension is to be given for the period of 10 years in place of earlier 7 years and family pension at higher rate was payable from 19.11.2012 to 18.11.2015. It was submitted that the delay was due to the wanting clarification on extending such facility for 10 years to the pensioners who expired prior to 1.1.2006 and such clarification was received in the year 2015, for which there was the unavoidable delay.

4. In reply to the above submissions of the learned counsel for the respondents, learned counsel for the applicant submitted the ground now mentioned was not mentioned in the impugned rejection order dated 13.2.2017 passed by the respondents.

5. The pleadings as well as the submissions by both the sides are considered by me. The question to be decided in this case is whether the respondents had a reasonable cause for delaying the payment of the revised rate from 19.11.2012 to 18.11.2015 as per the recommendation of the 6th CPC.

6. Learned counsel for the respondents had submitted that certain clarifications were received in this regard during 2015. It is stated in the counter that the Director of Accounts passed the order for revised pension vide order dated 16.2.2015 at Annexure A/3 and the same was received by the pension disbursing authority on 24.2.2015. It is stated that it was not clear in that order whether the revised pension would be effective from 1.1.2006 or it

would be effective from 24.9.2012, for which it took some time to confirm the effective date from which the arrear would be payable and the same was disbursed on 5.9.2016 after receipt of clarification. It is stated in the counter that in the 6th CPC recommendations, there was no provision originally for payment of family pension at higher rate for 10 years for those employees who expired prior to 1.1.2006.

7. Regarding the point whether the revised pension would be effective from 1.1.2006 or from 24.9.2012, for which the delay has occurred according to the respondents, it is noticed that the period for the applicant for payment of pension at the enhanced rate was from 19.11.2012 to 18.11.2015 and the said period is after 24.9.2012. Hence, no clarification was necessary for payment of the arrears in question to the applicant immediately after 24.2.2015. In other words, the arrear claim of the applicant could have been settled since the arrear related to the period from 19.11.2012 to 18.1.2015 for which there was no ambiguity in the order dated 16.2.2015 (copy at Annexure A/3 series) by which it was clearly stated that the applicant was entitled for revised family pension of Rs.6358/- till 18.11.2015. Therefore, the delay in payment for the period from 24.2.2015 to 5.9.2016 is held to be on account of the respondents, for which the applicant is entitled for interest for delayed payment of the arrear of revised pension from 24.2.2015 till 5.9.2016, which is the date of actual disbursement to the applicant.

8. Learned counsel for the applicant has cited the order dated 3.1.2019 in OA 491/2012. It is seen that in the cited case the interest @ 9% per annum in respect of the period for which the delay was on account of the respondents was ordered. In that case interest payment was partly done by the respondents. The question in that case was the extent of delay which was due to the respondents and for such delay, the applicant was allowed the interest.

9. In view of the above, the present OA is allowed in part with a direction to the respondents to pay interest @ 9% per annum on the amount payable to the applicant from 24.2.2015 till the date of actual disbursement of differential arrear amount within a period of two months from the date of receipt of the copy of this order. The impugned order dated 13.2.2017 (Annexure A/6) rejecting the prayer of the applicant, is quashed. There will be no order as to costs.

(GOKUL CHANDRA PATI)

MEMBER (A)

I.Nath