

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA

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Date of Order: 11.04.2016

Present

Hon'ble Ms. Bidisha Banerjee, Judicial Member

OA. 350/00150/2016	TAPAN KUMAR MAITY
OA. 350/00151/2016	MANAS KUMAR SAMANTA
OA. 350/00152/2016	JAYANTA KUMAR SAMANTA
OA. 350/00153/2016	KENA RAM GORAI

VS.

UNION OF INDIA & ORS. (S. E. RLY)

For the Applicant : Mr. TK Biswas, Counsel

For the Respondents : Mr. BL Gangopadhyay, Counsel

O R D E R

Per Ms. Bidisha Banerjee, JM:-

These matters are taken up in Single Bench in terms of Appendix VIII of Rule 154 of CAT Rules of Practice, as no complicated question of law is involved, and with the consent of both sides.

2. Since identical issues have been raised in these matters, identical facts noted and identical relief have been sought for, these matters are taken up analogously for hearing with the consent of the parties and would be governed by this common order.

3. For the sake of brevity OA. 350/00150/2016 is delineated from the rest. In the OA the applicant has prayed for refund of amount of Rs. 2, 17, 386/- as recovered from him towards over payment of special pay (Annexure A-3).

4. Learned counsel for applicant argued that in the pension payment order the DCRG amount was sanctioned as Rs. 7, 02, 227/- whereas the applicant was allowed to Rs. 4, 84, 841/- towards gratuity. The balance was released

..... 16.07.2015 pursuant to the direction in OA.

759 of 2013 and therefore the refund after considerable delay and without any reason should be visited with a penalty of interest.

5. Per contra, learned counsel for respondents while vociferously dispelling the claim of the applicant would submit that it was only after the decision in OA. 759 of 2013, rendered on 15.07.2014, that the amount become payable and therefore it would not attract any penalty.

6. Heard learned counsel for the parties and perused the materials on record.

7. It could be noted that in OA. 759 of 2013, in case of staff retained in PCO beyond his normal prescribed tenure of 5 years and facing recovery due to over payment, the recovered amount was directed to be refunded but without any element of interest imposed as penalty upon the respondents. The order was passed on 15.07.2014 where after the respondents decided to release the recovered amount retained towards over payment of PCO allowance in case of similarly circumstanced candidates. However, the delay in releasing retired dues that occurred after the order was passed on 15.07.2014, should be visited with a penalty. In the instant case the applicant retired on superannuation in 2015 i.e. long after the order. Hence in my considered opinion after 15.07.2014 order the withholding of retiral benefits was highly improper and ought to be visited with a penalty.

8. Here, I seek to be guided by the following decisions:

(i) **S. K. Dua vs. State of Haryana & Anr.** reported in 2008(3) SLJ 108, the Hon'ble Apex Court allowed the interest on delayed payment of retiral benefits released after the delay of 4 years.

(ii) The Hon'ble High Court of Gujarat in the case of **Suresh O Shah vs. State of Gujarat** in Special Civil Application No. 220/2003 rendered on 03.02.2005 in a case where delay was made without any explanation, held that "it would always be open to the Court to grant interest on the delayed payment of the retiral dues."

(iii) **Bhailal Mahijibhai Patel vs. Union of India & Ors**, reported in 2014(2) SLJ 22 CAT, wherein it was held that delayed payment of retiral/terminal benefits is liable to shackled with payment of interest till such payments were made.

(iv) In OA. 2832/2012 in the case of **Aswini Kumar vs. Union of India & Ors**, rendered by Principal Bench on 11.02.2015 interest was allowed on arrears of pension, gratuity and leave encashment.

9. In view of the enumeration hereinabove, the OA is disposed of with a direction upon the respondents to pay the interest @ 8% on arrears from the date it become payable till the date the payments were released, within a period of one month.

10. Accordingly, all the OAs could be governed by this order and all the OAs are disposed of. No costs.

(Bidisha Banerjee)
Member (J)

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