

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.603 of 2003

New Delhi, this the 11th day of September, 2003

HON BLE MR.KULDIP SINGH, MEMBER(JUDL)

Shri Roshan Lal Bhardwaj
S/o Shri Roop Chand Bhardwaj
retired as Sub Postmaster Delhi North Division
R/o 32A Rajindra Park Nangloi
Delhi-110 041
address for service of notice
C/o Shri Sant Lal Advocate
CAI-Bar Room, New Delhi.

...Applicant

(By Advocate: Shri Sant Lal)

Versus

1. The Union of India through the
Secretary,
M.O. Communications,
Department of Posts,
Dak Bhawan,
New Delhi-110 001.
2. Chief Postmaster General,
Delhi Circle,
Meghdoot Bhawan,
New Delhi-110 001.
3. The Sr. Supdt of Post Offices,
Delhi North Division,
Civil Lines,
Delhi-110 054.

...Respondents

(By Advocate: Shri R.P. Aggarwal)

O R D E R

The applicant has filed this OA seeking a direction to the respondents to make payment of interest which accrued to the applicant on account of delayed payment of retiral benefits.

2. The applicant retired from Government service on 31.5.1997 but payment of retiral dues has been made as under:-

"(1) DCR Gratuity Rs.1,00,000/- in April, 2002

(2) Balance of DCRG Rs.2465/- on 27.7.22002

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(3) Arrears of Pension Rs.25207/- on 20.7.2002

(4) Leave encashment: Rs.47680 on 18.2.2002

(5) Value of commutation

of pension : Rs.1,24,294/- on 20.7.2002".

3. The reason for delay in payment was that a disciplinary enquiry was has been initiated against the applicant on 4.9.96 for an incident which took place in March 1988. The Inquiry Officer submitted his report on 27.10.1998. The applicant made a representation against the enquiry report. However, the President of India under Rule 9 of the CCS (Pension) Rules, 1972 stated that the proceedings against the applicant be dropped.

4. The applicant submitted his representation for payment of interest on account of annual delay of retiral benefits and has prayed for 18% interest be allowed.

5. The respondents are contesting the OA. The respondents in their reply pleaded that on conclusion of the proceedings the Disciplinary Authority, i.e., the President passed the following order:-

" The allegation that the CO did not maintain Register SB-45 has been proved. But this has no effect on the premature closure of ID Accounts in question. The proved allegation is not so grave to warrant any action under Rule 9 of the CCS (Pension) Rules, 1972. However, the President has conveyed his displeasure for CO's failure to maintain Register SB-45.


In view of the above facts and circumstances the President has ordered that proceedings under Rule 9 of CCS (Pension) Rules, 1972 against Shri Roshan Lal Bhardwaj be dropped".

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6. It is submitted that since the applicant has been conveyed displeasure of the President for his failure to maintain the Register SB 45, the charge was duly proved in the inquiry, so the applicant has not been exonerated fully. But however resorting to Rule 9 of CCS (Pension) Rules, 1972 the President has taken a lenient view and only displeasure note was conveyed as such there is no full exoneration so the applicant is not entitled to any interest.

7. I have heard the learned counsel for the parties and gone through the records of the case.

8. The learned counsel for the applicant has referred to a judgment in OA No. 1003/93 wherein also similar situation has taken place. The applicant was due to retire on 31.3.1988 and a few days before his retirement he was served a charge-sheet on 17.3.1988. In that case the disciplinary authority disagreeing with the enquiry report conveyed displeasure to the applicant on 26.4.1991. The court came to the conclusion that in such cases gratuity could not be held and even has expressed doubts about the power of President to convey his even displeasure after the retirement of the applicant. It was held under Rule 9 of the pension rules 9 that the President can order cut in pension and power to convey displeasure was held to be in doubt so relying upon this judgment and also in another judgment given by the another Bench in OA 2288/99 given by a Co-ordinate Bench of this Tribunal the counsel for the applicant urged that the applicant is entitled to interest on delayed payment of retiral benefits.



9. As against this Shri R.P. Aggarwal appearing for the respondents submitted that since the applicant was not fully exonerated so he is not entitled to interest. Besides that it is also pleaded that since applicant had been receiving full pension and commutation of pension has been released after the order was passed by the President, so the applicant is not entitled to interest on commutation thereon as he has been receiving payment of pension till the payment of commutation so no interest is to be allowed.

10. I have considered the rival contention of the parties.

11. Since the applicant has been exonerated on main charges and he has been held guilty only on minor charge of not maintaining register properly the impugned order should not have been passed. Passing of order by the President conveying displeasure only after the retirement does not seem to be in order and it is quite doubtful whether such an order could be passed and the order relates back to the retirement as held by a Co-ordinate Bench in OA 2288/99 so I do hold that the applicant had become entitled to the Gratuity, leave encashment etc. at the time of retirement. The gratuity amount should have been paid within 3 months and since the same has been delayed so he is entitled to interest thereon.

12. Similarly the applicant is entitled to interest on leave encashment, balance of CDR. However, the applicant is not entitled to interest on commutation of pension since the pension gets reduced only after commutation and prior to that one gets full pension.

13. Accordingly, I allow the OA and direct the respondents to pay interest at the rate of 9% on the amount of gratuity as the same has become due to the applicant after the date of retirement and the applicant is also entitled to interest on leave encashment from the date the same has become due. This may be done within a period of 3 months failing which the respondents are liable to pay interest at the enhanced rate of 12%. No costs.


(KULDIP SINGH)
MEMBER (JUDL)

Rakesh