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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO.2905/2003

New Delhi, this the ^{1st}/₄ day of November, 2004

HON'BLE MR. SARWESHWAR JHA, MEMBER (A)

Shri Baldev Krishan ,
S/o Sh. Naunit Ram, Retired UDC (Group 'C'),
Under the Commissioner of Food Supplies & Consumer
Affairs, Govt. of N.C.T. Delhi and
R/o A-215, Lajpat Nagar, Sahibabad,
Distt. Ghaziabad, Address for service of
Notices C/o Shri Sant Lal, Advocate,
CAT Bar Room, New Delhi – 110 001

.... Applicant

(By Advocate : Shri Sant Lal)

Versus

1. The Govt. of N.C.T. of Delhi,
Through the Secretary,
Deptt. Of Food Supplies & Consumer Affairs,
K.Block, Vikas Bhawan, (Admn. Br.)
New Delhi – 110 002
2. The Commissioner, Food & Supplies Deptt.,
K. Block, Vikas Bhawan, (Admn. Br.),
New Delhi – 110 002
3. The Pay & Accounts Officer No. X,
Govt. of NCT, Old Sectt.
Delhi – 110 054

.... Respondents

(By Advocate : Shri S.Q. Kazim)

ORDER

By Sarweshwar Jha, A.M. :

The applicant has sought payment of interest on arrears of pay and allowances accruing to him on the basis of re-fixation of his pay vide order regularizing the periods of his suspension as on duty for all purposes and revision of his retrial benefits with consequential benefits along with penal interest for abnormal delays caused in his case.

2. The applicant, who was initially appointed as an LDC w.e.f. 17.1.1956, was promoted as UDC w.e.f. 1.3.1969. He was, however, placed under suspension w.e.f. 21.7.1984 on account of a criminal case against him. He has submitted that he was paid subsistence allowance at the rate of 50% of his salary and which was increased

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to 75% w.e.f. 21.10.1984. The suspension was revoked vide order dated 13.5.1986 and he was reinstated. He was placed under suspension again vide order dated 18.3.1987 on the same ground of a criminal case under investigation/trial. In the meantime, the applicant retired on superannuation w.e.f. 31.5.1989. An order for payment of provisional pension was issued on 30.9.1990.

3. The applicant has claimed that he was acquitted by the Hon'ble Court of Special Judge Delhi vide order dated 12.8.1996 and accordingly he submitted a representation on 5.12.1996 for regularization of the periods of his suspension as on duty for all purposes and consequential re-fixation of his pay and revision of his retrial benefits. It is again admitted by the applicant that an order was issued by the competent authority on 1.7/1997 (A/4) treating the entire period of suspension as spent on duty for all purposes. While the applicant submitted a representation dated 10.7.1997, seeking re-fixation of his pay and consequential benefits, etc., as explained in paragraph 4.7 of his OA, the respondents issued an order dated 10.3.1998 for payment of provisional pension of Rs.600/- p.m. w.e.f. 1.6.1986 (A/5). The arrears of pension were paid on 4.6.1999. The applicant does not seem to be satisfied with the above and continued submitting representations/reminders for re-fixation of his pay in the post of UDC w.e.f. 1.3.1970 onwards upto 1.3.1989. It is observed that the respondents have paid arrears of pay and allowances to the applicant in consequence of re-fixation of pay on 29.3.2003. But the applicant is aggrieved by the fact that interest has not been paid to him on account of belated payment of the said amount. He has also admitted that his pension and amount of DCRG have been revised on the basis of revision of pay vide letter dated 7.8.2003, but arrears of pension have not been paid to him.

4. The applicant has also a grievance that his pension has not been revised on the basis of the recommendations of the 5th Central Pay Commission. He has claimed that there is a delay of about 14 years in payment of arrears of pension.

5. In support of his case, the applicant has cited the decisions of this Tribunal in the case of **Shri Ravinder Lal** (OA No.2288/1999 decided on 8.2.2001) and has claimed that his case is similar to the said case, in which some other decisions have been cited, as detailed by the applicant in paragraph 5.3 of the OA. A reference has

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also been made to the decisions of the Hon'ble Supreme Court in the case of **Vijay L. Malhotra vs. State of UP** {2001 (1) ATJ 215} in which directions were given to the respondents to pay interest on delayed payment of retirement benefits.

6. The respondents have, however, in their counter, submitted that they have already treated the periods of suspension as spent on duty for all purposes and accordingly vide order dated 10.3.1998 he has been allowed pensionary benefits as per rules. The matter relating to promotion, fixation and release of increments in respect of the applicant also is reported to have been sent to the competent authority by the respondents on 15.4.1999 together with the service records and accordingly pay fixation of the applicant has been done from 1.3.1970 to 18.2.2002 and necessary orders issued on 17.1.2003, revising the pension and paying arrears thereof to the applicant. From what has been submitted by the respondents, it does not appear that they have not taken the requisite action, as prayed for by the applicant in the matter.

7. However, the applicant in his rejoinder has simply submitted that the pensionary benefits as allowed to him vide order dated 10.3.1998 were not correctly determined and further that pay fixation as done w.e.f. 1.3.1970 vide order dated 17.1.2003 and payments made thereupon have not been made to him, apart from the fact that interest due on delayed payments of these benefits has also not been paid to him. He appears to have made a kind of general reference to the fact that his pension has not been revised by taking into account the consequential revision due after acceptance of the recommendations of the 5th Central Pay Commission. This aspect of the matter has also not been elaborated in the counter reply of the respondents.

8. On closer examination of the facts as are available before me in respect of both the parties, it is observed that the respondents have taken appropriate action by treating the periods of suspension as spent on duty and have accordingly revised the pension, etc. and have made certain payments. The payments which have been received by the applicant have also been admitted by him in paragraph 4.10 of the rejoinder. The prayer of the applicant has thus been found broadly accepted by the respondents while they have ordered the period of suspension as spent on duty and revised the pension and made necessary payment accordingly. The question whether


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the recommendations of the 5th CPC have been taken into account while so revising the pension of the applicant after he was acquitted by the learned Court needs to be clarified by the respondents to the applicant and which need not be gone into by the Tribunal separately.

9. As regards the delay in making the payment and the applicant claiming interest thereon, it appears that necessary orders have been issued by the respondents only after the applicant was acquitted by the Learned Court and which fact took place only after the applicant had retired on superannuation. To, therefore, argue that the respondents delayed revising the pensionary benefits and making payments thereupon does not appear to be quite correct and justified. Therefore, I do not see any justification in the applicant seeking payment of interest for the so-called delay in revising the pension, etc. in respect of the applicant. The cases, which have been cited by him in support of his contention, do not appear to be quite relevant in his case.

9. Accordingly, keeping in view the submissions made by both the parties, while I do not find any merit in the case of the applicant, I am inclined to dispose of this OA with a direction to the respondents that they clarify to the applicant whether they revised the pension, etc. of the applicant in consequence of the periods of suspension having been treated as on duty after taking into account the recommendations of the 5th CPC as were relevant to the applicant as on the relevant date and whether the appropriate instructions on the subject were thereby followed on the subject. The respondents shall also afford an opportunity to the applicant to have a personal hearing on the subject and shall further ensure that the matter is disposed of by them by issuing a reasoned and speaking order within a period of three months from the date of receipt of a copy of this order. Ordered accordingly. No costs.


(Sarweshwar Jha)
Member (A)

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