

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.3159/2003

This the 16th day of March, 2004

HON'BLE SHRI V. K. MAJOTRA, VICE CHAIRMAN (A)

V.K.Saxena S/O Laxmi Narain Saxena,
Asstt. Director General (Stores),
R/O B-8/6073, Vasant Kunj,
New Delhi-110070.

... Applicant

(By Shri S.C.Saxena, Advocate)

-versus-

1. Union of India through
Secretary, Ministry of Health &
Family Welfare, Nirman Bhawan,
New Delhi-110011.
2. Director General of Health Service,
Govt. of India, Nirman Bhawan,
New Delhi-110011.
3. Chief Controller of Accounts,
Ministry of Health & Family Welfare,
Nirman Bhawan,
New Delhi-11011.

... Respondents

(By Shri R.N.Singh, Advocate)

O R D E R (ORAL)

Applicant while working as Assistant Director General with the respondents was issued two chargesheets for major penalty. In the disciplinary proceedings relating to the first chargesheet issued on 23.2.1995, penalty of reduction of pay by two stages for one year etc. was imposed upon the applicant. This penalty was set aside by this Tribunal in OA No.1298/2002. Respondents carried the matter to the Hon'ble High Court through a writ petition which was dismissed. On 29.8.2003, respondents rescinded the penalty order and dropped the charges relating to the first chargesheet. The second proceedings initiated against him on

26.12.2001 were also challenged by the applicant through OA Nos.1470/2002 and 1419/2003. These proceedings are stated to have been closed without imposing any penalty on the applicant. The applicant retired from service on 31.7.2003. He is aggrieved that no pensionary benefits were granted to him even though disciplinary proceedings against him had been closed/quashed without imposition of any penalty upon him. Respondents have stated that disciplinary proceedings initiated against the applicant through memorandum dated 26.12.2001 were concluded with a decision dated 22.9.2003 (Annexure-B) conveying "displeasure of President". After the final conclusion of these disciplinary proceedings on 22.9.2003, vigilance clearance certificate was issued by the competent authority on 15.1.2004. Consequently, the necessary pension papers for authorising various retiral benefits to the applicant were issued on 23.1.2004 (Annexure R-3). The payment of leave encashment amounting to Rs.1,28,922/- was made to the applicant on 30.1.2004 (Annexure R-4) and sum of Rs.4,06,370/- and Rs.3,49,000/- on account of commuted value of pension and DCRG have also been paid to him on 4.2.2004 (Annexure R-5). Orders for regular pension were also issued on 5.2.2004 (Annexure R-6). The learned counsel of respondents stated that there has been no delay caused with mala fide intention to harass the applicant. The delay has been only because the vigilance clearance certificate was issued on 15.1.2004 after final conclusion of the disciplinary proceedings dated 26.12.2001 vide order dated 22.9.2003.



2. The learned counsel of applicant stated that while pensionary benefits have been accorded to the applicant, applicant should be granted interest for the period of delay in payment of the dues after conclusion of the disciplinary proceedings against the applicant.

3. I have heard the rival contentions.

4. It is observed that while the penalty imposed in connection with the chargesheet dated 23.2.1995 was ultimately rescinded dropping all the charges against the applicant on 29.8.2003 after a winding legal battle, the other proceedings initiated with the issue of chargesheet dated 26.12.2001 were also concluded without completing the enquiry by simply conveying "displeasure of President" on 22.9.2003 (Annexure-B). Obviously, the applicant had been exonerated of all charges in both the enquiries and was entitled to retiral benefits immediately as per relevant rules. Respondents have tried to explain the delay by stating that though the second enquiry was concluded on 22.9.2003, vigilance clearance certificate was issued by the competent authority on 15.1.2004, whereafter, without any loss of time, the applicant was granted retiral benefits. Provisions of Rule 68 of the CCS (Pension) Rules, 1972 are relevant in this case. Rule 68(1) reads as follows :

"(1) If the payment of gratuity has been authorized later than the date when its payment becomes due, and it is clearly established that the delay in payment was attributable to administrative lapses, interest shall be paid at such rate as may be prescribed and in accordance with the instructions issued from time to time:

1b

Provided that the delay in payment was not caused on account of failure on the part of the Government servant to comply with the procedure laid down by the Government for processing his pension papers." 1b

5. Under the Government of India's decision under Rule 68 ibid, guidelines for determining delay in payment of gratuity etc. in cases other than superannuation, and payment of interest therefor have been laid down. In cases where a Government servant is exonerated of charges, the Government servant is entitled to interest from the date following the date of retirement. Delay in issuance of vigilance clearance certificate from 22.9.2003 to 15.1.2004 is attributable to administrative lapses which cannot be condoned. Applicant, in the facts and circumstances of the case, is held entitled to interest from 23.9.2003 to the dates of payment of various retiral benefits.

6. The OA is allowed directing the respondents to pay to the applicant interest at the rate of 9% per annum for the periods of delay in making payments of various retiral dues w.e.f. 23.9.2003 till the dates of respective payments. Respondents are further directed to pay interest so calculated to the applicant within a period of fifteen days from the date of communication of these orders. No costs.

V. K. Majotra
(V. K. Majotra)
Vice Chairman

/as/

16.3.2004