

Central Administrative Tribunal, Principal Bench

Original Application No. 154 of 2003

New Delhi, this the 7th day of November, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.A. Singh, Member (A)

V.P. Bansal, A.E. (Retired)
2102/1, Nai Basti Area,
Narela Mandi,
Delhi-40

.... Applicant

(By Advocate: Shri Vijay Kumar)

Versus

1. Union of India,
Through the Secretary,
Government of India,
Ministry of Defence,
New Delhi-11
2. The Engineer-in-Chief,
Kashmere House,
Army Head Quarters,
New Delhi

.... Respondents

(By Advocate: Shri Rajeev Bansal)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

During the course of submissions, learned counsel for the applicant very fairly conceded that so far as the relief claimed that the penalty has been imposed without consulting the U.P.S.C., he does not press the same.

2. The sole other controversy which craves for an answer is as to whether the applicant is entitled to interest on the amount of gratuity and commuted value of pension because of the inordinate delay in payment of the same. To appreciate the said controversy, we would re-list some of the facts which are not in dispute.
3. The applicant was served with three charges on

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3.2.95. The Articles of Charge are:

"(a) Article-I

- (i) Work orders were placed on the contractor in excess of estimated cost on that date.
- (ii) Demolished materials were not fully and properly taken on charge.

(b) Article-II

- (i) Baby indents books pertaining to my sub division which should have been with my sub division, were allowed to be kept with storekeeper of project stores.
- (ii) Baby indents used for charging off maintenance stores were not properly closed by my subordinate staff leaving scope for subsequently entering additional items. I failed to detect it.

(c) Article-III

I had given responsibility for purchasing stores at higher rates causing extra burden on exchequer by my inattentive and injudicious functioning."

4. The report pertaining to the said Articles of Charge was submitted on 5.8.96. The applicant superannuated on 30.4.96. The order imposing 50/- rupees cut in pension has been imposed on 30.12.99. Payment of the gratuity was made on 30.8.2000.

5. It is on the strength of these facts that the learned counsel contended that there was an inordinate delay referred to above particularly ~~in~~ ^{after} ~~open~~ taking a decision by the disciplinary authority and, therefore, the applicant should be awarded reasonable interest.

6. On behalf of the respondents, it was urged that the order had to be passed by the disciplinary authority

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which was passed on 30.12.99 and payment was made on 30.8.2000. Thus there was no inordinate delay.

7. We have carefully considered the submissions so made. It is a settled principle which is not in dispute that if there is an inordinate delay in payment of the gratuity and other dues of a person who has superannuated, he reasonably can claim interest on the same. The Supreme Court in the case of Dr.Uma Agrawal vs. State of U.P. and another, (1999) 3 SCC 348 where there was delay in payment of the dues, held:

"6. The case before us is a clear example of departmental delay which is not excusable. The petitioner retired on 30.4.1993 and it was only after 12.2.1996 when an interim order was passed in this writ petition that the respondents woke up and started work by sending a special messenger to various places where the petitioner had worked. Such an exercise should have started at least in 1991, two years before retirement. The amounts due to the petitioner were computed and the payments were made only during 1997-98. The petitioner was a cancer patient and was indeed put to great hardship. Even assuming that some letters were sent to the petitioner after her retirement on 30.3.1993 seeking information from her, an allegation which is denied by the petitioner, that cannot be an excuse for the lethargy of the Department inasmuch as the Rules and instructions require these actions to be taken long before retirement. The exercise which was to be completed long before retirement was in fact started long after the petitioner's retirement.

7. Therefore, this is a fit case for awarding interest to the petitioner. We do not think that for the purpose of the computation of interest, the matter should go back. Instead, on the facts of this case, we quantify the interest payable at Rs.1 lakh and direct that the same shall be paid to the petitioner within two months from today."

8. More recently in the case of Vijay L. Mehrotra vs. State of U.P. & others, JT 2000 (5) SC 171, the

18 Ag

14

-4-

concerned person had retired on 31.8.97. The retiral benefits had been paid much later. The Supreme court allowed the simple interest at the rate of 18% from the date of retirement till the date of payment.

9. What are the facts in the present case?

10. We have given above the sequence of facts. It is true that there was departmental proceeding pending against the applicant. The record reveals that the report was submitted on 5.8.96 but for more than three years, no action was taken by the disciplinary authority to pass any order. We are conscious of the fact that in departmental action, it takes some time to consider the matter on its merit. But it can't be that years roll-by and no action is taken particularly when a person has superannuated. After all, every individual/citizen has a right under Article 21 of livelihood. To a retired person, his pensionary benefits are the source of livelihood. Therefore, we deem it appropriate to hold that after six months of the submission of report, a decision in this regard should have been taken and within six months of the same, the pensionary benefits should have been released. In other words, from 5.8.97 i.e. one year from the report that was so received, the pensionary benefits should have been released which were so released on 30.8.2000.

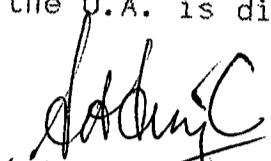
11. Accordingly, we direct that the applicant would be entitled to simple interest at the rate of 8-1/2% on the amount of gratuity and commuted value of pension from

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5.8.97 till 30.8.2000. The amount should be calculated and paid to him within two months of the receipt of the certified copy of the present order. With these directions, the O.A. is disposed of.


(S.A. Singh)

Member (A).


(V.S. Aggarwal)
Chairman.

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