

Central Administrative Tribunal - Chandigarh

Jit Kumar Son Of Shri Nathu Ram vs Union Of India (Uoi) Through The ... on 28 February, 2007

Bench: G A L.M.

ORDER L.M. Goyal, Vice Chairman (A)

1. Applicant has filed the present O.A. claiming interest on delayed payments of his retiral dues.
2. Applicant retired from service under the respondents as Accountant on 31.12.2003. He was charge sheeted on 10.10.2001. Regular inquiry was conducted against him and the Inquiry Officer submitted his report to the Disciplinary Authority, Respondent No. 2, on 23.12.2003 in which the charges leveled against him were held 'not proved'. The Disciplinary Authority accepted the report of the Inquiry Officer and ordered that the chargesheet be filed. It was further ordered that suspension period of the applicant, w.e.f. 21.8.2001 to 3.3.2003 be treated as leave of the kind due, vide order, dated 22.7.2004. Applicant made an appeal against this order on 3.9.2004, but the same has not been decided so far.
3. Before his retirement, applicant had withdrawn 90% of his GPF amount. After retirement, an amount of Rs. 16,045/- was paid to him on 6.2.2004. Applicant states that this amount could not be his full and final payment of GPF. As per his last GPF statement, for the year 2003-04, a balance of Rs. 33,583/- was shown. Therefore, his final payment of GPF was to be Rs. 33,583/-, plus interest thereon, not the amount paid to him, which is short of his full and final payment, as aforesaid, by Rs. 29,764/-, plus interest on this amount. He made a number representations in this regard and was informed on 20.7.2005 that an amount of Rs. 16,581/- on account of interest was credited in excess to his GPF Account due to wrong calculations and the said amount has been deducted and, accordingly, final payment of Rs. 16045/- has been made to him. Vide letter dated 20.7.2005, he was again informed that no amount is outstanding to be paid to him on account of GPF. Plea of the applicant is that if there had been any mistake in calculations, that should have been depicted in his final statement of GPF, issued to him on 21.6.2004. He was neither put to any notice nor an opportunity of hearing was afforded to him before making the said deduction of Rs. 16,581/-. Therefore, he is entitled to balance amount of Rs. 29,764/- with interest, up to the date of actual payment thereof.
4. Applicant further states that under the rules, pension papers are required to be got completed 8 months before the date of retirement. Though he was to retire on 31.12.2003, he was asked to complete pension papers vide letter dated 11.11.2003, within 15 days. Delay in completion of pension papers resulted in delay in release of his retiral benefits and pension which, under the rules, the govt. employee should begin to receive on the due date. Another reason for non-release of his retiral dues in time was that the inquiry pending against him, was not finalized expeditiously. Although the Inquiry Officer submitted his report on 23.12.2003, holding the charges as 'not proved', the disciplinary authority passed the penalty order on 22.7.2004 with a considerable delay of about 7 months and corrigendum to it which was issued on 18.8.2004. On conclusion of the inquiry proceedings, vide letter dated 16.9.2004, Respondent No. 3 moved the case to Respondent No. 2 for release of pension and DCRG. Respondent No. 2, after completing requisite formalities, sent it to Respondent No. 4 on 27.9.2004 for release of pension and DCRG. Vide Certificate and report dated

20.10.2004, orders regarding fixation of pension and release of an amount of Rs. 2,41,362/- on account of DCRG were issued. Arrears of pension, for the period 1.1.2004 to 31.12.2004, amounting to Rs. 95,311/- and commutation value of pension, amounting to Rs. 1,37,117/-, was credited to his account on 31.12.2004. Gratuity, amounting to Rs. 2,41,362/- was, however, was credited to his account on 18.2.2005.

5. Applicant pleads that there is delay of one year in releasing the payment of arrears of pension and commuted value of pension and a delay of one year, one month and 18 days in payment of DCRG to him. These amounts were illegally withheld by the respondents and have been paid with delay, for no fault on his part. Therefore, he is entitled to be paid interest thereon. He made a representation in this regard which has been rejected and respondents have declined payment of interest to him.

6. The next grievance of the applicant is with regard to order dated 22.7.2004 of the disciplinary authority whereby it was ordered that suspension period of the applicant, w.e.f. 21.8.2001 to 3.3.2003, be treated as leave of the kind due. He pleads that the said period should have been treated as the duty period. If that order is so modified, as aforesaid, he will be entitled to leave encashment of Rs. 20,967/- for 43 days, plus interest thereon. His appeal dated 3.9.2004 against the penalty order is pending with the Appellate Authority, and has not been decided so far.

7. On various grounds, as mentioned in Para 5 of the O.A., applicant has prayed for the reliefs that:

i) Orders dated 29.6.2005, 19.1.2006 and 30.3.2006(Annexures A-29, A-31 and A-33, respectively) may be quashed and set aside and respondents be directed to pay him interest @ 18% per annum on delayed payments of pension, commutation value of pension and DCRG;

ii) Order dated 20.7.2005 (Annexure A-7), whereby his request to pay him the outstanding amount of GPF has been declined, may be quashed and set aside and respondents may be directed to pay to him the balance amount of Rs. 29,764/-, on account of GPF, alongwith interest at the rate of 18% per annum; and

iii) The order dated 22.7.2004 (Annexure A-16) may be quashed and set aside to the extent his suspension period from 28.8.2001 to 3.3.2002 has been treated as leave of the kind due.

8. Respondents have filed a short reply. The facts of the case are largely not disputed. It is, however, pleaded that applicant has filed the present O.A. without waiting for the outcome of his appeal. Final order on in the inquiry proceedings was passed on 22.7.2004. Leave encashment of Rs. 1,46,280/- was released to him on 22.1.2004. DCRG amounting to Rs. 2,41,362/- was released on 21.10.2004. His pension was fixed and released vide order dated 2.11.2004. There is no delay in payment of pensionary benefits to the applicant which have been released immediately after conclusion of the inquiry proceedings. There is no lapse on their part to cause delay. Therefore, applicant is not entitled to interest on the same. Applicant has filed a rejoinder.

9. I have heard Shri S.S.Katnoria, Id. Counsel for the applicant and Shri Vinay Gupta, Id. Counsel for respondents and have examined the pleadings and documents on record.

10. The grievance of the applicant in the present O.A. is three-fold, firstly with regard to final payment of GPF, secondly with regard to the penalty order by which his suspension period has been treated as leave of the kind due and, thirdly, for payment of interest on his retiral dues. These claims are considered one by one as follows.

11. As per own pleading of the applicant, he withdrew 80% of his GPF amount before retirement. He is disputing the balance 20% amount payable to him as full and final payment of his GPF. The ground taken by him is that as per his last GPF statement, for the year 2003-04, a balance of Rs. 33,583/- was shown. Therefore, his final payment of GPF was to be Rs. 33,583/-, plus interest thereon but only an amount of Rs. 16,045/- was paid to him on 6.2.2004, which is short of his full and final payment, as aforesaid, by Rs. 29,764/-, plus interest. In this connection, he was informed that an amount of Rs. 16,581/- on account of interest was wrongly credited to his GPF Account which amount has been deducted and, accordingly, final payment of Rs. 16045/- has been made to him and that no amount is outstanding to be paid to him on this count. Plea of the applicant is that if there had been any mistake in calculations, that should have been depicted in his final statement of GPF, issued to him on 21.6.2004. He was neither put to any notice nor an opportunity of hearing was afforded to him before making the said deduction of Rs. 16,581/-, therefore, he is entitled to balance amount of Rs. 29,764/- with interest. Considering these facts, it may be observed that mere fact that a balance of Rs. 33,583/- was shown in the last GPF statement of the applicant, for the year 2003-04, in itself cannot entitle him to the balance amount and interest thereon, as claimed by him. Even if he was not put to notice or had not been given an opportunity of hearing before deducting an amount of Rs. 16,581/- which, allegedly, had been wrongly credited to his GPF Account as interest, can also not be a ground on which this Court can feel convinced that applicant is entitled to claim made by him. In these facts and circumstances, the Court can only direct Respondent No. 4 to reconcile the GPF accumulations of the applicant and to provide details in this regard to the applicant.

12. The next prayer of the applicant is that order dated 22.7.2004 (Annexure A-16) may be quashed and set aside to the extent his suspension period from 28.8.2001 to 3.3.2002 has been treated as leave of the kind due and it be ordered to be treated as duty period, whereby, he will be entitled to leave encashment of Rs. 20,967/- for 43 days, plus interest thereon. This Court cannot jump to this conclusion. Admittedly, his appeal against the penalty order is pending with the Appellate Authority, and has not been decided so far. I, therefore, would consider it appropriate to issue a direction for a decision by the appellate authority in this regard.

13. Lastly, considering the claim of the applicant for grant of interest on delayed payments of his retiral benefits, I find that his retirement on 31.12.2003 is not disputed. It is also not disputed that in the disciplinary proceedings pending against him, the Inquiry Officer submitted his report to the Disciplinary Authority on 23.12.2003 holding the charges as 'not proved'. However, the final order was passed on 22.7.2004. Corrigendum to the same was issued on 18.8.2004. Appeal of the applicant against this order is still pending. Ld. Counsel for the applicant argues that there is no fault on the part of the applicant in delaying the inquiry proceedings or thereafter. He cooperated in the inquiry proceedings which were closed by the Inquiry Officer with his report dated 23.12.2003. The final order was, however passed with delay, which resulted in delay in release of his retiral dues.

I find valid force in this argument on behalf to the applicant. Plea of the respondents that there is no delay in payment of pensionary benefits to the applicant which have been released immediately after conclusion of the inquiry proceedings, is not acceptable. I am of the view that delay of one year in releasing the payment of arrears of pension and commuted value of pension and a delay of one year, one month and 18 days in payment of DCRG to the applicant, is not reasonable in the facts and circumstances of this case. Had the disciplinary authority passed the penalty order within a reasonable time, such delay could be curtailed and retiral benefits of the applicant could be cleared within a reasonable period, which is considered to be three months from the date of retirement of the applicant. The plea of the respondents that they are not at fault in delaying the benefits to the applicant is hereby rejected and, accordingly, it is held that applicant is entitled to interest on these delayed payments.

14. In view of the above discussion, this O.A. is disposed of with the following directions that:

- i) Respondent No. 4 shall reconcile the GPF amount of the applicant and shall furnish details of the same to the applicant within a period of one month from the date of receipt of a copy of this order;
- ii) The Appellate Authority in the case of the applicant shall dispose of the appeal of the applicant dated 3.9.2004 within a period of one month from the date of receipt of this order and applicant may be intimated in this regard within 15 days thereafter. Needless to say that in case the period of suspension of the applicant is ordered to be treated as on duty, he shall be entitled to leave encashment for the admissible period. Otherwise, the claim of the applicant in this regard shall stand rejected; and
- iii) Respondents are directed to pay simple interest at the rate of 8% per annum to the applicant on delayed payments of his retiral dues viz. arrears of pension, commuted value of pension and DCRG, released beyond 3 months from the date of retirement of the applicant, except leave encashment which was paid to him within the said period, and to pay the same to the applicant within two months from the date of receipt of a copy of this order.

15. There is no order as to costs.