R.S. Shah Vs. the Controller, Controllerate of

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Court : Central Administrative Tribunal CAT Hyderabad

Decided On : Apr-30-2007

Judge : B Ray

Appellant : R.S. Shah

Respondent : The Controller, Controllerate of

Judgement :

1. Heard Mr. S. Rama Krishna Rao, Ld. Counsel for the applicant and Mr.

G. Jaya Prakash Babu, Ld. Counsel for the respondents.

2. This application has been filed by the applicant Under Section 19 of the Administrative Tribunal Act, 1985 seeking for the following reliefs: (a) to call for the records pertaining to the sanction and payment of pro-rata pension and other pensionery benefits of the applicant, consequent on his absorption in Public Enterprise and the payments made in respect of pension and pensionery benefits and declare the inaction on the part of the Respondents to settle the pensionery benefits, including difference in commutation value and interest on delayed payments of the pensionery benefits, as arbitrary, illegal, un-warranted, misconceived, against principles of natural justice, and in violation of Articles 14 & 16 of the Constitution of India; (b) to direct the respondents to settle the claims of the applicants for difference in commutation of pension and the interest on the delayed payment thereon, as well as interest on delayed payments of pensionery benefits like Gratuity, pro-rata monthly pension paid in lumpsum and commuted

value of pension paid belatedly and to further direct to release the payment of difference of commutation in pension along with interest from the date it was due and the interest on delayed payments on pro-rata pension, Gratuity, monthly pension, etc. @12% per annum, as directed by the Hon'ble Tribunal in OA No. 396 of 2002, from the date they were due till the date thye were actually paid, with all the consequential benefits; and be pleased to pass such other and further order or orders as the Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

The brief facts of the case are that the applicant earlier approached this Tribunal in O.A. No. 553 of 1991 seeking for the following directions: (i) To direct the respondents to grant him pensionery benefits giving him the benefit of confirmation retrospectively from the date of permanency of the posts, (ii) To transfer the balance at credit in the GPF account to the Contributory Provident Fund account of the present employer awarding penal interest to compensate the applicant for the monetary loss sustained by him for the non-transfer of the same till date, and to order to extend all the other benefits that are admissible under the relevant rules and O.M. No. 28016/5/85/Estt. (C) dt. 31.1.1986 and O.M. No. 4 (12)/85-PW dt. 31.3.1987 of Deptt. Of Pensions, and Pensioners Welfare.

9. In view of the above the O.A. is disposed of with the following directions to the respondents: (a) Calculations regarding transfer of P.F. amount should be re-checked to see whether the normal P.F. interest upto the time of transfer has been allowed. If interest has not been paid for any period earlier to the date of transfer, such amount of interest must be transferred to the present employer; (b)Interest on delayed payment of gratuity for the period between the date of relief of the applicant for joining M/s. Bharat Dynamics Limited till the date of payment of Gratuity should be paid as per the provisions under Rule 68 of CCS (Pension) Rules, and (c)Option exercised by the applicant for pensionery benefits should be acted upon and pro-rata pension be allowed.

Time for implementation of the order is 3 months from the date of communication of this order. No costs.

3. The said order of the Tribunal was moved upto Hon'ble Supreme Court of India. However, the said S.L.P. was dismissed on 2nd September, 1994. It is seen from the order of this Tribunal in O.A. No. 396 of 2002 dated 11.08.2003, which is annexed as AXVIII at pages 45 to 50 of the O.A. that pursuant to the dismissal of the S.L.P. by the Hon'ble Apex Court, the respondents made payment of the retiral benefits as admissible under the rules except payment of interest on delayed payment of gratuity as per the details furnished, which are as under: Nature of payment Amount Date on which paid(a) Pro-rata Pension appears from Rs. 26,298/- 13 Nov. 95 24 Jan. 87 to Oct. 95 @ Rs. 250 p.m.(b) Commuted Value of Rs. 21,960/- 13 Nov. 95 Pension According to the applicant, the following payments were still due to him, which are as under: 1. Difference in commuted value of pension of Rs. 3120/- and interest on it from January, 1987 till it is paid.

2. Interest from January, 1987 to 5.8.1995 on commuted value of pension i.e. On 21,960/- 3. Interest on interested worked out on the above items till it is actually paid.

At the time of hearing of the said O.A. on 11.08.2003, the learned Counsel for the applicant therein in the said O.A. submitted that the interest on gratuity has already been paid and, therefore, he is not pressing for the same.

4. Considering the facts and circumstance of the case, this Tribunal disposed of the application by directing the respondents to pay interest on delayed payment of pension @ 12% p.a. from 16.12.1993 (i.e.

Three months after the judgment in O.A. 553 /91 was made ready) till the date of payment.

5. In regard to the difference in commutation value of pension and other items mentioned in the statement enclosed by the applicant along with rejoinder of the said O.A., this Tribunal however, directed the respondents to fix a date to sit with the applicant and to give an opportunity to the applicant to be heard to settle the matter within a period of one month from the date of communication of the order and the applicant should also co-operate with the respondents in settling the issue.

6. It is not in dispute that the respondent have given personal hearing to the applicant pursuant to the order of this Tribunal dated 11.08.2003 passed in O.A. No. 396 of 2002. However, the applicant has again approached this Tribunal seeking for the aforesaid reliefs.

7. After hearing the Ld. Counsel for either side and on going through the pleadings and material papers placed before me, I find that respondents have categorically given details of the payment of the retiral benefits in page Nos. 12, 13 & 14 of the counter reply.

8. Ld. Counsel for the applicant has also read out the said calculation given by the respondents in their counter reply. I find that the applicant has been be paid the commuted value of pension amounting to Rs. 21,960/- on 13.11.1995 and arrears of Pension @ 250/- per month from January, 1987 to October, 1995 amounting to Rs. 26,298/- was paid on 13.11.1995. In regard to the gratuity amounting to Rs. 10,120/- was paid on 22.08.1992 and interest on Gratuity @ 10% per annaum from 25.1.1987 to 22.08.1992 amounting to Rs. 5605/- was paid on 24.1.2003.

9. Details have been given at para 19 of the counter reply filed by the respondents that the interest on arrears of pro-rate pension of Rs. 26298/- @ 12% amounting to Rs. 6049/- from 16.12.1993 to 13.11.1995.

The interest on arrears of pension comes to an amount of Rs. 18,430/- @12% p.a. from 16.12.1993 to 21.10.2005 and the applicant has also been paid an amount of Rs. 5,051 towards the interest on commuted amount of pension of Rs. 21,960/- @ 12% from 16.12.1993 to 13.11.1995.

10. Since this Tribunal has already ordered to pay interest on the delayed payment of pension @12% p.a. from 16.12.1993 till the date of actual payment, the applicant cannot now agitate for payment of interest from a date prior to 16.12.1993. I find that the respondents have implemented the order of this Tribunal in O.A. No. 396 of 2002 by granting interest w.e.f. 16.12.1993 till the date of actual payment.

11. In view of the above, I find no substance in this O.A. and the same being devoid of merit is dismissed accordingly. However, there shall be no order as to costs.