

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW**

ORIGINAL APPLICATION No. 461 of 2021

Wednesday, this the 1st day of December 2021

Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

Ex Santosh Kumar Singh No. 3003569P S/o Shri Abhay Raj Singh R/o Village-Junedpur, Post-Hanumanganj, Teh-Phoolpur, Police Station - Sarai Inayat, District- Prayagraj/Allahabad (U.P) 221505.

..... Applicant

Learned counsel for the : **Vijay Kumar Pandey**, Advocate.
Applicant

Versus

1. Union of India through, Secretary, Ministry of Defence South Block , R.K. Puram, New Delhi-110011.
2. Additional Directorate General of Personnel Service/AG's Branch, HQ of Min of Def (Army), PIN 0900256 C/o 56 APO.
3. OIC Records, Records The Rajput Regiment, PIN -900427 C/o 56 APO.
4. Principal Controller of Defence Accounts (P), Draupadi Ghat, Allahabad (U.P)-211014.
5. SBI Teliar Ganj through its Branch Manager, Branch -SBI SME, MLNR Eng. College, Teliar Ganj, Allahabad (U.P).

.....Respondents

Learned counsel for : **Shri Ashish Kumar Singh**, Advocate
the Respondents. Central Govt. Counsel

ORDER (Oral)

1. The instant Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs:-

- (a) *That this Hon'ble Tribunal may kindly be pleased to direct the opposite parties to grant the interest on delayed amount of pension, since 01.10.2018 to 11.07.2019, to actual date payment, and provide the interest on the aforesaid delayed amount of pension with 18% p.a. since due date to actual date of payment in the interest of justice.*
- (b) *That this Hon'ble Tribunal may kindly be pleased to award the cost Rs. 25,000/- (Rs. Twenty Five Thousand only) for financial loss as expenses in filing the interest appeal with the interest @18% p.a in the interest of justice to the applicant against the opposite parties.*
- (c) *That this Hon'ble Tribunal may be pleased to pass any other order or direction which this Hon'ble Court may deem just and proper be passed in favour of the applicant.*

2. Brief facts of the case are that applicant was enrolled in the Army on 01.01.2002 and was discharged from service w.e.f. 30.09.2018 having completed more than 16 years of service in low medical category. He was provided pensionary benefits on 11.07.2019 whereas these dues (commutation of pension, gratuity etc) ought to have been granted in the month of October 2018. As per applicant his payment was delayed by about 09 months for which he deserves to be paid interest. In this regard, he preferred an appeal dated 12.07.2019 (Annexure-I to O.A.) but to no avail. Applicant has filed this O.A. for grant of interest for the period 01.10.2018 to

10.07.2019 on the ground that his pensionary benefits were paid after 09 months from the due date.

3. Submission of learned counsel for the applicant is that retiral benefits in respect of applicant were due to be paid in the month of October, 2018 whereas he was paid the same in the month of July, 2019, thus there is a gap of 09 months which attracts interest on account of delayed payment. Learned counsel for the applicant has relied upon the Hon'ble Apex Court judgment dated 17.12.1984 delivered in the case of **State Bank of Kerala and Ors vs M. Padamanabhan Nair**, 1985 AIR 356 and judgment dated 01.08.2014 delivered in the case of **DD Tewari (D) vs Uttar Haryana Bijli Vitran Nigam Ltd & Ors**, Civil Appeal No 7113 of 2014 and submitted that applicant is entitled to interest on delayed payment of his rightful dues.

4. On the other hand, learned counsel for the respondents submitted that on receipt of AFMSF-16 in respect of applicant it was forwarded to Records, the Rajput Regt for grant of disability pension which was rejected on the ground that his disability was neither attributable to nor aggravated by military service (NANA). Thereafter, LPC-cum-Data Sheet and Sheet Roll of applicant were forwarded to PAO (OR) on 03.08.2018 for pre-audit which were submitted to PCDA (P), Allahabad for issuing PPO but PCDA (P), Allahabad rejected claim of applicant on 07.10.2018 on the ground of NANA. Thereafter, on

22.12.2018 the ibid documents were again submitted to PCDA (P), Allahabad manually and therefore, PPO could only be issued on 30.04.2019. The PPO was collected through special courier and despatched to CPPC, State Bank of India, 4 Kutchery Road, Allahabad i.e. the Pension Disbursing Agency (PDA) on 16.05.2019. He further submitted that respondents have taken utmost care to provide pension and pensionary benefits to applicant in time, however delay occurred is not deliberated, rather, it is circumstantial due to involvement of various agencies. He pleaded for dismissal of O.A. on the ground that there was no delay on the part of respondent No 1-4.

5. We have heard learned counsel for the parties and perused the material placed on record.

6. Before we proceed further it is worthwhile to mention that none turned up from the respondent No 5 despite sufficient service of notice. It is not disputed that applicant was discharged from service on 30.09.2018 therefore, he is entitled to pension and pensionary benefits w.e.f. 01.10.2018. It is also not disputed that applicant was paid pensionary benefits on 11.07.2019.

7. We find that initially the delay took place due to involvement of various intermediary agencies as also rejection of claim by PCDA (P), Allahabad which ultimately was allowed

vide PPO No 163201900728 dated 30.04.2019. Therefore, it is obvious that the delay has caused in payment of applicant's dues which attract interest on delayed payment in terms of Hon'ble Supreme Court judgments cited above. For convenience sake operative portion of the Hon'ble Supreme Court judgment dated 01.08.2014 is reproduced as under:-

"6. For the reasons stated above, we award interest at the rate of 9% on the delayed payment of pension and gratuity amount from the date of entitlement till the date of the actual payment. If this amount is not paid within six weeks from the date of receipt of a copy of this order, the same shall carry interest at the rate of 8% per annum from the date of amount falls due to the deceased employee."

8. In view of the above, we are of the view that since applicant was required to be paid his pensionary benefits on 01.10.2018 and this being paid on 11.07.2019, he is entitled for payment of interest for the period 01.10.2018 to 10.07.2019 @ 6% p.a.

9. The O.A. deserves to be allowed, hence **allowed**.

10. The respondents are directed to complete the entire exercise within two months from today and pay his entitled interest. Default will invite interest @ 8% p.a.

11. No order as to costs.

12. Miscellaneous applications, pending if any, stand disposed off.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated: 1st Decemebr, 2021

rathore