

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

10.

O.A. No. 34 of 2012
With M.A. No. 145 of 2012

Lt. Gen. (Retd.) Devendra Nath Varma

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. S.K. Sanan, Advocate.

For respondents: Ms. Shilpa Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.
HON'BLE LT. GEN. S.S.DHILLON, MEMBER.

ORDER
12.03.2012

M.A. No. 145 of 2012

This application has been filed on behalf of the petitioner for permission to amend the opening sentence of Para 4.1 of the OA relating to his Unit and Appointment. The amended paragraph reads as under:

"That at the time of his retirement, on 30 Sep 1995, the Applicant then Maj Gen, was serving as Chief Signal Officer, HQ Northern Command c/o 56 APO; and on grant of the notional rank of Lt Gen, his Appointment has been notified, by the Respondents, on 07 Apr 2011, as "serving in DTE GEN OF SIGS", Army HQ."

Considering the submissions, application is allowed. Amended petition be filed on record and copy of the same be supplied to the other side.

Application stands disposed of accordingly.

O.A. No. 34 of 2012

Learned counsel for the Respondents prays for and is granted four weeks' time to file a reply. Rejoinder thereto, if any, be filed within two weeks thereafter.

Put up on **30.04.2012**.

**A.K. MATHUR
(Chairperson)**

**S.S. DHILLON
(Member)**

**New Delhi
March 12, 2012
mk**

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HON'BLE LT. GEN. S.S.DHILLON, MEMBER.

ORDER

13.08.2012

1. Petitioner vide this petition has made a limited prayer that respondents be directed to pay to him compound interest @ 12% per annum on all the arrears of Pay and Allowances, retiral benefits (pension and gratuity) and leave encashment that have accrued to the petitioner in pursuance of judgment of this Tribunal dated 22.01.2010 passed in an earlier petition filed by the petitioner bearing TA No. 255/2009 wherein following order was passed;

"We uphold the contention of the petitioner and quash the impugned order of retirement dated 30th September, 1995. Since the petitioner has retired, he may be granted notional promotion to that of a Lt. General w.e.f. 01st October, 1995 and the financial consequences that would have accrued to him had he been in service, including that of pensionary benefits. The exercise may be conducted within 90 days of this order. No order as to costs."

2. Vide above judgment of this Tribunal, impugned order of retirement dated 30.09.1995 was quashed and since petitioner had already retired, he was granted notional promotion to the rank of Lt Gen w.e.f. 01.10.1995 with financial consequences including pensionary benefits.

3. Learned counsel for the petitioner argued that the judgment dated 22.01.2010 of this Tribunal has been complied with and petitioner has been given notional benefits of the rank of Lt Gen, however he has not been paid interest on the arrears. Respondents have refused to make payment of interest on the ground that court order is silent and there is no mention in the order in this respect. He further argued that petitioner has been paid his dues now in 2011 which was to be paid to him 1995. The money value from 1995 to 2011 has considerably gone down and petitioner should be compensated for the same. Therefore, the present petition has been filed seeking interest on belated payment of the arrears.

4. In this connection, learned counsel for the petitioner has drawn our attention to a decision given by the Hon'ble Supreme Court in the case of **Alok Shanker Pandey Vs. Union of India & Ors. AIR 2007 SC 1198**

wherein their Lordships in para 9 of the judgment have observed that;

"9. It may be mentioned that there is misconception about interest. Interest is not a penalty or punishment at all, but it is the normal accretion on capital. For example if A had to pay B a certain amount, say 10 years ago, but he offers that amount to him today, then he has pocketed the interest on the principal amount. Had A paid that amount to B 10 years ago, B would have invested that amount somewhere and earned interest thereon, but instead of that A has kept that amount with himself and earned interest on it for this period. Hence equity demands that A should not only pay back the principal amount but also the interest thereon to B."

5. A reply has been filed by the respondents and they contested the matter.

6. We have heard both the parties and gone through the record. We are of the opinion that petitioner deserves to be paid the interest on the arrears. He has been deprived his right to enjoy the money in 1995. Had he been paid his dues in 1995, he would have enjoyed the interest by depositing the same in the bank. However, he has been paid his dues in 2011 only. Therefore, we direct that petitioner will be entitled to interest @ 12% on all the arrears from 01.10.1995 till the date of payment.

7. Consequently, petition is allowed. No order as to costs.

A.K. MATHUR
(Chairperson)

S.S. DHILLON
(Member)

New Delhi
August 13, 2012
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