

**IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI
07.**

O.A. No. 387 of 2011

Ex. Sgt. P.K. Sharma

.....Petitioner

Versus

Chief of Army Staff & Anr

.....Respondents

For petitioner: Mr. D.K. Sharma, Advocate.

For respondents: Mr. R. Balasubramanian, ASG with Wing Commander
Sunit Tripathi.

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.

HON'BLE LT. GEN. Z.U. SHAH, MEMBER.

ORDER
24.01.2012

1. Petitioner by this petition has prayed that the Respondents may be directed to pay interest on the delayed payment/withheld payment to the tune of Rs. 3,25,000/- along with interest @ 24% till realisation.

2. Petitioner was enrolled in the Indian Air Force on 23rd December 1986 in the trade of IAF(P) after successfully completing the training. In June 2008, Petitioner applied for discharge on the ground of supersession. On 21st July 2008, the Petitioner was discharged from Indian Air Force. On 9th April 2009 the Petitioner submitted a representation making a grievance that he did not receive any PPO despite the lapse of 8 months for which the Petitioner was informed that he would get the PPO within the outer limit of 8 months. On 12th May 2009, the Petitioner received his first PPO dated 2nd April 2009 under covering letter No. RO/2801/704243/07/08 PW (SP) dated 23rd April 2009

from Respondent No.2 but surprisingly the basic pension was calculated as per the 5th Pay Commission and it should have been calculated as per the recommendations of the 6th Pay Commission which was already implemented. In that the pension of the Petitioner was shown as Rs. 3,813/- per month instead of Rs. 7,250/- per month. On account of certain anomalies in the PPO, Petitioner submitted another representation in June 2009 requesting to remove the anomalies in the pay and pay the balance dues. On 6th August 2009, Petitioner received a letter from Army HQ. Thereafter on 12th August 2009 he received another letter from the Respondents on issue of delay of payment of retiral benefits intimating that it will take some time to send another PPO. Then on 9th April 2010, Petitioner received a letter dated 22nd March 2010 along with the corrigendum PPO dated 16th March 2010 but surprisingly the said PPO was again having the anomalies as the last pay shown in the PPO was Rs.8,670/- per month whereas it was Rs.9,750/- per month. Then again he submitted representation and finally on 24th November 2010 the anomalies were pointed out, since it was not rectified, Petitioner claimed compensation to the tune of Rs.4,50,000. On 24th December 2010, Petitioner received a letter dated 3rd December 2010 from Respondents thereby intimating that the amended corrigendum PPO was not issued and same will be forwarded on its receipt. In these circumstances, the Petitioner has filed present petition claiming interest on delayed payment of the pension.

3. A reply has been filed by the Respondents and the Respondents have pointed out that in fact 6th Pay Commission was accepted by the Government on 12th November 2008 and the implementation order was issued on 5th December 2008. Prior to this Petitioner already gave an undertaking on 4th

June 2008 wherein he requested for early action on his premature discharge on completion of tenure and that he will not claim any interest for 6 to 12 months.

4. Learned counsel for the Respondents has brought to our notice that Petitioner was released the pension on the basis of 5th Pay Commission on 2nd April 2009 and so far as recommendations of 6th Pay Commission is concerned it has taken time because the Government has created a machinery in the Air HQ to implement the revision of pay of the 18,384 pensioners. It was a big job and first batch of cases for revision was processed in the month of March 2009. The revision of pension involved 3 agencies i.e. Air Force Record Office, Air Force Central Accounts Office (AFCAO) and Jt. CDA (AF) and therefore this process itself was cumbersome. The fixation of basic pay for calculation of pension benefits is being done by AFCAO and it is pointed out that in the instant case the basic pay of the Petitioner was initially fixed at Rs. 8,670/- by AFCAO and PPO was issued on 16th March 2010. A separate case for revision of basic pay from Rs. 8,670/- to Rs. 9,750/- was again taken up as demanded by AFCAO on 22nd April 2010 and corrigendum PPO was issued on 2nd July 2010 and then forwarded to the Petitioner and his PDA. From all this it is pointed out that it is not a case where Petitioner has been denied pension from 2008 to 2010.

5. We have considered the submissions of learned counsel for the Petitioner for grant of interest. One could appreciate had the pension not been released to the Petitioner after his discharge in 2008. Then certainly it can be a case for grant of interest. However in the present case Petitioner

has already been released pension on the basis of the 5th Pay Commission which was in force and meanwhile 6th Pay Commission has taken place which was accepted by the Government on 12th November 2008 and implementation order was issued on 5th December 2008. Then they have to undertake the exercise of revision of pension of 18,000 odd pensioners and there are three agencies were involved in the matter. Therefore it is a case of revision of Petitioner's pension from 5th Pay Commission to 6th Pay Commission. Petitioner was drawing his 5th Pay Commission pension but he was to be fixed in the 6th Pay Commission. Therefore it is not a case that the Petitioner was not drawing pension from 2008. That in 2008 when he was discharged from service, his pension as per the 5th Pay Commission was released to him because the fixation in the 6th Pay Commission otherwise would have taken a longer process. But it is not the case that he was denied the pension from 2008. He was drawing pension in 2008 and it was only that a revision in 2008 from 5th to 6th Pay Commission has taken. This time taken cannot be said to be so inordinate so as to grant interest to the Petitioner. Petitioner has already given an undertaking on 4th June 2008 that he will wait for 6 to 12 months. But so far as the pension has been released to him on the basis of 5th Pay Commission and the 6th Pay Commission revision has taken little time. That is because there are 18,000 odd pensioners whose pension has to be revised and in the order of seniority only the persons who have retired prior to him will be given preference. Accordingly, the pension of the Petitioner was fixed in 6th Pay Commission and same was released to him by order dated 2nd July 2010.

6. Hence, we do not find any inordinate delay in payment of pension to the Petitioner so as to grant him interest on that account. Petition is dismissed with no order as to costs.

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

**New Delhi
January 24, 2012
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**Z.U. SHAH
(Member)**