

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

04.

T. A. No. 32 of 2011
Suit No. 529/06/04 of District Court, Delhi

Ex. Hav. Mohinder Singh

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. Yogender Gautam, Advocate

For respondents: Mr. Anil Gautam, Advocate for R-1 to R-3
Mr. A.N. Verma with Ms. Amarjeet Vedi, Advocates for R-4

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

ORDER
10.04.2012

1. This suit was filed by the plaintiff/petitioner before the Senior Civil Judge, Delhi and it was transferred to this Tribunal after its formation.
2. Plaintiff vide this suit has prayed that a decree in the sum of Rs. 75,000/- with costs, pendente lite and future interest at 18% per annum be passed in his favour and against the defendants/respondents jointly and severally.
3. The brief facts of the case are that the plaintiff retired on 31.12.1998 from Indian Army as Havildar from 520 ASC BN C/o 99 APO and he furnished with defendant the account number 1488 of his bankers i.e. Punjab & Sind Bank, Branch Singhola, P.O. Tikri Khurd. The plaintiff was entitled to the

retirement dues and PPO in this regard was sent to the Defendant no. 4, Punjab & Sind Bank vide ASC Records Letter No. 13863068 L/SP 4507/Pen dated 31.12.1998.

4. The said PPO was incomplete and invalid as the same was not duly signed by the concerned officer and it was unsigned. The bankers did not honour this PPO and returned the same to the Defendant, Union of India for signature and for sending it back to the Bank after being signed. The process of sending unsigned PPO and its returning for signature and again sending the same to the Bank took a period of 7 months, therefore, the payment to the plaintiff was delayed by 7 months as a result of which plaintiff suffered hardship, humiliation, mental torture, agony and harassment despite no fault of his. He could only get his retirement dues on 29.07.1999 whereas he was entitled to get the same on 31.12.1998.

5. As the payment was delayed due to the negligence and carelessness on the part of defendants, so the plaintiff is claiming the interest @ 18% per annum on the sum of Rs.2,01,292/- for the period of 7 months amounting to Rs.25,000/-. Plaintiff is also claiming for damages of Rs. 50,000/- for harassment and mental torture caused to him for no fault of his. Therefore, plaintiff has filed the present suit seeking decree of Rs. 75,000/-. It is submitted that all the defendants are jointly and severally liable to pay the suit amount i.e. Rs. 75,000/- to the plaintiff as they all are responsible for withholding the dues of the plaintiff for no fault of the plaintiff and all of them harassed and caused mental agony and torture to the plaintiff.

6. Defendants have contested the matter and a separate reply has been filed by defendant nos. 1 to 3 i.e. Union of India and others and defendant no. 4 i.e. Punjab & Sind Bank.

7. Defendant no. 4 i.e. the Defendant Bank has pointed out in their reply that Bank could not honour the PPO sent by the defendant, Union of India as it was unsigned, therefore, the delay occurred. The Defendant Bank received the signed PPO in July, 1999 and it immediately credited the amount in plaintiff's account on 29.07.1999, therefore, Defendant Bank is not liable to pay any interest or damages to the plaintiff.

8. Defendant nos. 1 to 3 i.e. Union of India have pointed out in their reply that consequent upon retirement of petitioner from service, he was initially granted service pension of Rs. 1791/- per month vide PPO No. S/071662/98 (Army) dated 04.12.1998. The said PPO was sent to the main branch of the plaintiff's bankers i.e. Punjab & Sind Bank, 1 Connaught Circus, New Delhi vide letter No. 13863068/SP-4507 dated 31.12.1998 for necessary payment to the plaintiff with clear instructions mentioned therein that receipt of the documents be acknowledged within a week or non receipt will be reported to this office telegraphically failing which it will be assumed that the bank have received the document correctly.

9. But to the surprise of this office, after a lapse of six months Punjab and Sind Bank, Singhola Branch informed this office vide their letter dated 19.06.1999 that answering defendants' letter dated 31.12.1998 has been received by them unsigned. Immediately, a photocopy of the said letter dated

31.12.1998 was taken out from the office copy of answering defendants and was duly signed and forwarded to the Punjab & Sind Bank, Singhola Branch, New Delhi vide letter dated 15.07.1999 and necessary payment was made to the plaintiff on 29.07.1999. It is submitted that delay in payment of the pensionary benefits to the plaintiff took place due to the negligence and carelessness of Defendant no. 4, Punjab & Sind Bank, therefore, no delay took place on the part of the answering defendants.

10. We have heard both the parties and perused the record. The question before us is whether the delay was attributable to the defendant bank being defendant no. 4 or the Union of India and others being defendant nos. 1 to 3. The evidence has been led by the parties before the Civil Court. Plaintiff examined himself as PW-1 and also examined other witnesses on his behalf. He examined Shri K.K. Singh, Manager of Punjab & Sind Bank, Singhola Branch, Delhi as PW-4. This witness admitted that PPO along with forwarding letter dated 04.12.1998 and 31.12.1998 were forwarded to Singhola Branch by the Connaught Circus Branch of Punjab and Sind Bank vide letter dated 18.01.1999. He further deposed that as per bank's record, a letter was sent to the office of Defendant nos. 1 & 2 for signing on 19.06.1999, however he failed to explain the delay in sending information about unsigned letter with PPO to the defendant nos. 1 & 2. This witness in his cross examination by the counsel for defendant nos. 1 and 2 admitted that PPO dated 04.12.1998 along with the forwarding letter was received in time but they could not make the payment to the plaintiff nor they informed to the office of defendant nos. 1 and 2 till 16.06.2009.

11. Defendant nos. 1 to 3 examined Major Peeyush Kumar Singh on their behalf as DW-1 who in his affidavit deposed that PPO dated 04.12.1998 was sent to the main branch of the plaintiff's bankers i.e. Punjab & Sind Bank, 1 Connaught Circus, New Delhi with covering letter dated 31.12.1998 for necessary payment to the plaintiff with clear instructions mentioned therein that receipt of the documents be acknowledged within a week or non receipt will be reported to this office telegraphically failing which it will be assumed that the bank have received the document correctly. However, after a lapse of six months Punjab and Sind Bank, Singhola Branch informed this office vide their letter dated 19.06.1999 that answering defendants' letter dated 31.12.1998 has been received by them unsigned. Therefore, delay in payment of the pensionary benefits to the plaintiff took place due to the negligence and carelessness of Defendant no. 4, Punjab & Sind Bank and not on their part.

12. The defendants are trying to shift the liability from one shoulder to other. Learned counsels for the defendants tried to persuade us that delay in making the pensionary benefits to the petitioner was a bonafide mistake and was not a malafide one. Learned counsel for the defendant Bank has invited our attention to the statement of the plaintiff in which he has submitted that he has received the payment and same has been released to him. But the question is that when the PPO dated 04.12.1998 along with covering letter dated 31.12.1998 sent by the defendants, Union of India to the Connaught Circus Branch of Punjab & Sind Bank and the same was forwarded by Connaught Circus Branch to the Singhola Branch of Punjab & Sind Bank on 18.01.1999, why defendant no. 4 bank sit over the matter for more than

6 months after noticing of mistake of defendant nos. 1 to 3 for sending unsigned letter dated 31.12.1998. Defendant bank should have reported the mistake immediately to the defendant, Union of India, however it sent a communication in this regard only on 19.06.1999.

13. This is unfortunate that payment of pensionary benefit is being delayed for one reason or the other by the employers and this is not the solitary case which has come before us. Time and again we have tried to emphasis in various judgments of this Tribunal that employers of Union of India should be sensitise that since an incumbent has retired, payment should be made to him forthwith. Government's circular are also there to this effect that process of retirement benefit should be commenced before 6-7 months of the date of retirement of an incumbent so that at the time when an incumbent retires, the pensionary benefits and other benefits are made to him forthwith.

14. In the present case, there is contributory negligence on the part of defendant Bank as well as Union of India. The Union of India sent an unsigned covering letter dated 31.12.1998 along with PPO dated 04.12.1998 which is nothing but a sheer negligence, may be bonafide but it has caused serious consequences to the plaintiff. Similarly, defendant no. 4, Punjab & Sind Bank acted in most negligent manner. When they received an unsigned covering with PPO, they should have been informed about this lacuna to the defendant nos. 1 to 3 being Union of India and others immediately. But they sit over the matter and only addressed a communication in this regard on 19.06.1999 after a delay of more than six months. Due to this negligence on the part of defendant bank, petitioner suffered great financial hardships and

mental trauma. We record our serious displeasure with the functioning of National Bank, Punjab & Sind Bank. They are commercial organization and if they behave in such a negligent manner then what would be the fate of other consumers. They have acted in most negligent manner and they have to be saddled with the consequences to this kind of negligence at their end.

15. The contention of the learned counsel for the petitioner is that petitioner suffered mental trauma and financial hardship due to negligence on the part of Union of India and Punjab & Sind Bank. We agree with the contention of the learned counsel for the petitioner that both defendants are equally responsible for the delay in payment of retirement dues to the petitioner. Therefore, we hold that Union of India who sent an unsigned covering letter along with PPO acted in irresponsible manner and they have contributed to the misery of the plaintiff. Likewise, Punjab & Sind Bank also acted in most negligent manner in sitting over the matter for more than six months despite noticing the lacuna of unsigned covering letter in time.

16. In view of above, we direct that plaintiff is entitled to the interest at the rate of 12% on the sum of Rs.2,01,292/- for the period from 31.12.1998 to 29.07.1999 amounting to Rs.14,090/-. Further, he is also entitled for damages of Rs.20,000/- on account of harassment and mental trauma suffered by him. Both interest payment and damage amount will be borne by the defendants, Union of India and Punjab & Sind Bank equally. The amount shall be released to the plaintiff within a period of one month from the date of receipt of copy of this order by the defendants.

17. The suit is accordingly allowed. No order as to costs.

A.K. MATHUR
(Chairperson)

S.S. DHILLON
(Member)

New Delhi
April 10, 2012
mk