

COURT No.2  
ARMED FORCES TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

A.

OA 697/2019

Ex Sgt Durgesh Kumar Sharma ..... Applicant

VERSUS

Union of India and Ors. .... Respondents

For Applicant : Mr. D K Sharma, Advocate

For Respondents : Mr. Vijendra Singh Mahndiyan, Advocate

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)

HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER

19.03.2024

Vide our detailed order of even date, we have dismissed the OA 697/2019. Learned counsel for the applicant makes an oral prayer for grant of leave to appeal in terms of Section 31(1) of the Armed Forces Tribunal Act, 2007 to assail the order before the Hon'ble Supreme Court. After hearing learned counsel for the applicant and on perusal of our order, in our considered view, there appears to be no point of law much less any point of law of general public importance involved in the order to grant leave to appeal. Therefore, prayer for grant of leave to appeal stands declined.

(JUSTICE ANU MALHOTRA)  
MEMBER (J)

(LT GEN C.P. MOHANTY)  
MEMBER (A)

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**O R D E R**

Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the instant OA has been filed by the applicant who is also appearing in-person with the following prayers :-

- (a) *Quash and set aside the impugned letters dated 29 Jan 2019.*
- (b) *Direct the respondents to grant interest on delayed retirement/pensionary benefits to the applicant with effect from 01 Dec 2016 i.e. the date of discharge from service with interest @ 12% p.a. Till final payment is made.*
- (c) *Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case.*

2. The limited question for consideration in this OA is whether the applicant is entitled for interest on the delayed payment with respect to his retirement/pensionary benefits, in view of the fact that he was discharged

from the Air Force 30.11.2016, and the retirement benefits were paid to him as per the 6th CPC, while the 7th CPC was implemented before that, and that the PPO was issued on 13.12.2018 and the delayed arrears were credited only on 02.01.2019.

3. Respondents have filed a detailed Counter Affidavit explaining the sequence of events, in final disbursement of retirement benefits to the applicant, vide a chart, placed as under:

a)	Date of Discharge	30.11.2016
b)	Date of Govt Order for implementation of 7th CPC	04.09.2017
c)	Date of Circular No. 584 for revision of pensioner benefits of veterans as per 7th CPC	07.09.2017
d)	Last Date of submission of Option form for commutation of additionally commutable pension as per 7th CPC	04.01.2018
e)	Number of veterans were due for revision of their pensioner benefits who had retired on or after 01 Jan 16 till last date for submission of Option Form (i.e. 04 Jan 18)	10700
f)	Date of applicant's Option Form for commutation of additionally commutable pension as per 7th CPC	17.10.2017
g)	Date of applicant's case processed with Pension sanctioning authority for revision of pensioner benefits as per 7th CPC	29.08.2018
h)	Date of revised pensioner benefits sanctioned to the applicant	28.11.2018

4. On a perusal of documents placed on record, it is well clear that the recommendations of the 7th CPC as approved were notified

by a Gazette Notification dated 25.07.2016. However, the same was undertaken for implementation by the Ministry of Defence vide Govt Order 17(02)/2016-D (Pen/Pol) dated 04.09.2017, and in compliance of the same, a circular no. 534 dated 07.09.2017 was issued by the PCDA, Allahabad.

5. It is observed that in order to streamline the implementation of 7th CPC recommendations with respect to veterans, an option form was to be submitted, the last date of which was scheduled to be 04.01.2018. It is clear from the perusal of the document placed on record at Annexure R-1 (Colly) at Page 81 that the applicant has submitted his option form only on 17.10.2017, post which the applicant's case was processed with the PCDA on 29.08.2018, and the PPO was issued dated 28.11.2018.

6. It is pertinent to note that whenever there is change or revision brought out in the pay and allowances on account of recommendations of Central Pay Commission, it takes substantial time period for the executive and the departments there under to streamline the process of revision, not only to serving personnel, but also to the retired personnels.

7. During the course of the submissions it was adverted on behalf of the respondents that due to the enormity of the process of transition from 6th to 7th CPC, a software had to be developed for which a authorised vendor was deputed to facilitate streamlining of payment and all arrears to all serving and retired employees which took considerable amount of time and consequently, each case had to be carefully scrutinised by the officers responsible to ensure error free payment to all beneficiaries which was an elaborate and time consuming exercise. We find merit in this argument.

8. Even if we consider the timeline in entirety, the only consideration with respect to the delay could be the period from the last date of submission of option form i.e. 04.01.2018 to the processing of applicant's case with PCDA for 7th CPC benefits i.e. 29.08.2018, computing to around 7 months time period, which cannot be said to be the unreasonable delay in view of the fact that the implementation was to be done for approximately 47 lakh Central Government employees and 53 lakh pensioners, of which around 14 lakh employees and approx 18 lakh pensioners were from the defence forces itself.

9. In it's judgment dated 01.08.2014 in *D D Tewari Vs Uttar Haryana Bijli Vitran Nigam Ltd (2014) 8 SCC 894*, the Hon'ble Supreme Court observed that any *culpable delay* in settlement and disbursement thereof is to be visited with penalty of payment of interest.

10. In the absence of any conscious or culpable delay on the part of respondents in implementation of the 7th CPC benefits to the applicant, specifically where implementation is to be done at such a large scale, we do not consider it appropriate to levy interest on the delayed payment.

11. In view of the above observations, we dismiss the OA 697/2019 being devoid of merit.

Pronounced in the open Court on the 19<sup>th</sup> day of March, 2024.

[LT GEN C.P. MOHANTY]  
MEMBER (A)

[JUSTICE ANU MALHOTRA]  
MEMBER (J)

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