**(2019) 08 CAT CK 0029**

**In the Central Administrative Tribunal**

**Case No :** Original Application No. 237 Of 2016

Thana Ram Arora — APPELLANT

Vs

Union Of India Through And Ors — RESPONDENT

**Date of Decision :** 13-08-2019

**Acts Referred:**

Central Civil Services (Pension) Rules, 1972 — Rule 59(1), 59(1)(c)(iii), 59(2), 61(4), 68

**Citation :** (2019) 08 CAT CK 0029

**Hon'ble Judges :** Nita Chowdhury, Member (A)

**Bench :** Single Bench

**Advocate :** S.K. Gupta, Ashok Kumar, DP Sharma

**Final Decision :** Disposed Off

## Judgement

1. The applicant has filed the present OA, seeking the following reliefs:-

"(i) quash and set aside the order dated 15.12.2015 (Annexure-A);

(ii) Direct the official respondents to make the payment of interest at the rate of 15% p.a. on the amount mentioned in ground (H) above and the interest may be calculated w.e.f. 30.11.2013 upto the actual date of payment as referred in ground (E);

(iii) Direct the official respondents to recover the amount of interest from private respondents after fixing the responsibility for causing undue delay which caused hardships to the applicant;

(iv) May also pass any further order(s), direction(s) as be deemed just and proper to meet the ends of justice."

2. It is the case of the applicant that while holding the post of Assistant Director (Official Language) in CPWD, he was superannuated on 30.11.2013 and thereupon pension and pensionary benefits were required to be paid immediately but the same were paid after a prolonged delay by the respondents on the dates

mentioned in the following table:-

Gratuity

Rs.872,784/-

Paid

on

19.08.2014

Commutation

Rs.5,47,491/-

Paid

on

19.08.2014

Insurance

Rs.47,358/-

Paid

on

26.03.2015

Leave

on

Rs.5,28,960/-

Paid

Encashment

26.03.2015

Arrears of

Rs.2,70,747/-

Paid

in

Pension from

November, 2014

December,

2013

November,

2014 to

Difference of

on

Rs.43,067/-

Paid

Commutation

in terms of

05.03.2015

Grade Pay of

Rs.6600/-

Difference of

Rs.68,657/-

Paid

on

Gratuity in

Terms of

05.03.2015

Grade Pay of

Rs.6600/-

In view of the above table, the applicant submitted that there is a considerable delay in making the payment and as such, claims interest @ 15% on the amounts referred in the table and asks that the same be paid from the date when the amount became due, i.e., from the date of my retirement, i.e., 30.11.2013 upto the date of actual payments in each head. In this regard, the applicant has also submitted a representation dated 14.10.2015 as per directions of the Tribunal passed in his OA No. 3456/2015 but the said representation was rejected by the respondents vide its order dated 15.12.2015 stating that the claim of the applicant for interest on retiral/pensionary benefits along with the arrears on pension are not tenable in the eyes of law. Being aggrieved by the said impugned order, the applicant has filed the present OA.

3. The official respondents have contested the OA and filed their reply. They have contended that the pension case of the applicant was received in the respondent office 37 days prior to his retirement, whereas there is a provisions under Rule

59(1)(c)(iii) of CCS Pension Rules that the pension papers shall be forwarded to the Head Office not later than eight months before the date of retirement of the Government servant. They have further contended that they have disposed of the representation of the applicant dated 14.10,.2015 by passing a speaking order dated 15.12.2015 clarifying therein that the delay in processing the pension was due to late submission of the pension papers by the applicant. The said relevant paras of the said impugned order dated 15.12.2015 read as under:-

"As per the directions of Hon'ble CAT, Sh. Thana Ram Arora, Asstt. Director (OL) (retired) submitted the representation dated 14.10.2015 as addressed to DG office instead of within one week and the same was received in the office along with his letter on 02.11.2015.

You through proper channel submitted the papers before 1 and ½ months from the date of retirement whereas as per Rule 59(2) the papers were required to be submitted 8 months before the date of retirement and because of this reason, this office send the pension case to Pay & Accounts Officer (Internal Audit Wing) on 06.11.2013 i.e. before one month before the date of retirement. As per the pension compilation, Rule 59(1), the stage one and stage 2 was completed but the stage 3 could not be completed because you had not submitted the pension case as the same was not received and the pension case was sent to the Pay & Accounts Office (Internal Audit Wing) only on 06.11.2013.

Because of some doubt in your pay fixation b y the Pay & Accounts Officer (Internal Audit Wing) your service book and pension case was sent to Internal Audit Wing, Ministry of Urban Development on 10.12.2013, thereupon, to the Pay and Accounts Office (T&C). During this period, this office had written to Pay & Accounts Officer (Internal Audit Wing) and Internal Audit Wing for early disposal of the case and the copy of the same was also forwarded to you and Pay & Accounts Officer (Internal Audit Wing) informed to you.

There is a difference in the dates of making payment as submitted by you. The payment of insurance amount, amounting Rs.47,358/- was made on 27.03.2014 whereas, the same has been mentioned in your representation as 26.03.2015. The payment of leave encashment has been made on amounting Rs.5,28,960/- on 23.01.2015 whereas, in your representation that has been referred as 26.03.2015.

The delay in submitting pension papers of 8 months by you could be sorted out after removing the shortcomings in the case. So, in this regard, there was no delay on the part of anybody else. The delay in processing the pension papers was only because of not to submit pension papers on time by you. If you submit all the pension papers before 8 months i.e. 3/2013 from the date of superannuation, pension matter could not be delayed. In view of the above facts, the interest claimed by you is not justified."

4. The official respondents have also denied the claim of the applicant for interest on delayed payment of leave encashment and CGEGIS. In this regard, they have

 

drawn our attention to CCS(Pension Rules) annexed at R- 27 (internal pages 165 to 167) which reads as under:-

"(f) In the matter of delay payment of leave encashment, the Department of Personnel and Training in their note dated 2.8.1999 has clarified that there is no provision under CCS (Leave) Rules for payment of interest or for fixing responsibility. Moreover, encashment of leave is a benefit granted under the leave rules and not a pensionary benefit.

(g) In the matter of CGEGIS, the Department of Expenditure, Ministry of Finance in their UO No.709/E.V./99 dated 6.8.1999 has clarified that payments under CGEGIS cannot be termed as terminal benefits. As payments under this Scheme are made in accordance with the Table of Benefit which takes into account interest up to the date of cessation of service, no interest is payable on account of delayed payments under the scheme. They have also clarified that CGEGIS payment cannot be withheld and no Government dues can be recovered from the accumulation except the amount claimed by the financial institution as due from the employee on account of loans taken for house building purpose."

In view of the above, the respondents have submitted that they have rightly rejected the claim of the applicant for grant of interest on pensionary benefits keeping in view the provisions of Rule 68 of CCS Pension Rules.

5. The private respondents have also filed their reply in which they have stated that as per the directions of the Tribunal on 17.09.2015 passed in OA No. 3465/2015, the applicant was allowed to make representation within a week of receipt of the order, which he had received on 24.09.2015 but had submitted the same on 20.10.2015, after a period of about three weeks. Moreover, the pension case of the applicant was not submitted within the time limit as specified under sub rule 4 of rule 61 of the CCS (Pension) Rules, 1972 and were received in the office of Accounts Officer only 18 days before his retirement as also borne from the speaking order dated 15.12.2015 and therefore, delay is totally attributable to the applicant on account of failure to comply with the laid down procedure.

6. Private respondents have also reiterated the fact that the applicant had submitted his pension papers before 1 ½ months from the date of his retirement, whereas as per Rule 59(2), the same were required to be submitted 8 months before the date of retirement and due to this reason, the pension case of the applicant was sent to Pay & Accounts Officer (Internal Audit Wing) only on 06.11.2013, i.e., before one month before the date of retirement. The respondents have further contended that as per the pension compilation, Rule 59(1), the stage one and stage 2 was completed but the stage 3 could not be completed because the applicant had not submitted the his pension papers till March, 2013 and had submitted the same only before 1 ½ months before his retirement and for this reason of delay in submitting the pension papers by the applicant, case of the applicant for pension was sent to the Pay & Accounts Office (Internal Audit Wing) only on 06.11.2013. They have thus submitted that the

delay in submitting the pension papers as per Rule 59(2) by the applicant could be sorted out after removing the shortcoming in the case which took time. Hence, the delay in processing the pension papers was only because of delayed submission of pension papers on time by the applicant and if the applicant had submitted all the pension papers before 8 months i..e 3/2013 from the date of his superannuation, pension matter could not be delayed. Hence, the interest claimed by the applicant is not justified as per Rule 68 of the CCS(Pension) Rules. The applicant has not disputed the above factual position and has submitted that no doubt, he has submitted his pension papers before 1 ½ months of his retirement but the pension and pensionary benefits ought to have been released on completion of 8 months as specified in Rule 59(2) from the date of submission of papers.

7. After hearing both the parties and perusing the record, quite clearly, the applicant had submitted his pension papers only 1 ½ months before the date of his retirement, i.e. 30.11.2013, whereas as per Rule 59(2), the applicant was to submit the same before eight months of his retirements. Hence, there is a clear cut delay on the part of the applicant to submit the pension papers to the respondents. However, we appreciate the plea of the applicant that even if he had submitted pension papers only 1 ½ months before his retirement but all the pensionary benefits were to be cleared on completion of 8 months, i.e., by 30.05.2014 from the date of submission of papers as per Rule 59(2) of Pension Rules. Hence, in view of the clear-cut rule position, the respondents are directed to grant the interest on all delayed payments of pensionary benefits, except insurance and leave encashment for the period beyond 8 months from the date of submission of pension papers by the applicant at the rate applicable to GPF deposits as per Rule 68 of Pension Rules, within a period of 90 days of receipt of a copy of this order.

8. With the above directions, the OA is allowed and disposed off. No costs.

 