

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P. (Civil) No.7595 of 2010**

% ***Date of Decision: 07.02.2011***

Joint Director of Civil Aviation & Ors. *Petitioners*

Through Mr.V.K.Rao, Sr.Advocate with Mr.Ayushya
Kumar & Mr.Vaibhav Kalra, Advocates.

Versus

Sh.Iqbal Singh Vedi & Ors. *Respondents*

Through Mr.M.K.Bhardwaj, Advocate

CORAM:

HON'BLE MR. JUSTICE ANIL KUMAR

HON'BLE MS. JUSTICE VEENA BIRBAL

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

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1. The petitioners, Joint Director of Civil Aviation & Ors., have challenged the order dated 19th May, 2010 passed in CP No.236 of 2007 in OA No.1640 of 2006 by the Central Administrative Tribunal, Principal Bench, New Delhi in the matter, titled 'Iqbal Singh Vedi & Ors. v. Sh. A.K.Chopra, Joint Director of Civil Aviation & Ors.' where the Tribunal heard revived contempt petition and directed the petitioners to pay to the respondents simple interest @ 9% per annum on arrears of revision of IDA pay scale from December, 1990 till December, 1995 within a period of two months from the date of receipt of a copy of the

order.

2. The Tribunal had held that it had directed by an order dated 4th June, 2007 in OA No.1640 of 2006 to grant interest at 9% per annum on the arrears payable to the respondents from the date it became due till the date of payment. It was further held that the petitioners had adopted the revision of IDA pay scale w.e.f. 01.01.1990 by a decision taken on 01.01.1996 and since it was ordered that arrears be payable from the date payment became due, therefore, interest on arrears from December, 1990 till December, 1995 shall also be payable which has been denied to the respondents.

3. The plea of the petitioners was that though the arrears on the revision of pay scale has been granted w.e.f. 01.01.1990 yet interest has been made applicable only from 01.01.1996 i.e. from the date the revision had been adopted by the petitioners.

4. The Tribunal categorically noted that the directions in para 26 (c) of the order passed on the OA was to pay interest to the respondents from the date it became due and till the date of payment'. The plea of the petitioners that the payment of interest from 01.01.1990 would open the flood gate and administrative chaotic situation was not accepted and consequently, directed the compliance of the order dated 4th June, 2007 and to pay interest for the period December, 1990 till

December, 1995.

5. The order of the Tribunal dated 19th May, 2010 is primarily challenged on the ground that the Tribunal has misinterpreted its own directions given by the order dated 4th June, 2007 and further directions to pay interest from December, 1990 till December, 1995 were uncalled for and legally not required to be passed. It was also contended that the directions in the contempt petition may result in multiplicity of litigation. The petitioners also pleaded that the Tribunal has exceeded its jurisdiction while issuing these directions in the contempt petition as the petitioners had already complied with the directions given by the Tribunal in the order dated 4th June, 2007 while disposing of OA No.1640 of 2006 of the respondents.

6. The respondent no.1 and the counsel for the respondent nos. 2 & 3 have opposed the pleas of the petitioners and have contended that the order dated 4th June, 2007 is clear and unambiguous. Against the said order a writ petition was filed by the petitioners where the order was not stayed. In the said writ petition being WP(C) 5687 of 2007 the petitioners were directed to pay all the arrears and the respondents were directed to secure the amount payable by the petitioners. The plea of the petitioners that the Tribunal has antedated the relief in exercise of its contempt jurisdiction was denied on the ground that while allowing the original application of the respondents the interest had

been awarded from the date the arrears had become due.

7. We have heard the learned counsel for the parties and have also perused the record. The record of the Civil Writ Petition No.5687 of 2007 has also been called which was filed on behalf of the petitioners against the order dated 4th June, 2007 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in the matter 'Sh.Iqbal Singh Vedi & Ors. v. Union of India & Ors.', allowing the OA of the respondents.

8. The respondents in OA No.1640 of 2006 had sought the directions to the petitioners to fix their pension strictly in accordance with CCS (Pension) Rules, 1972 and to pay all the amounts due to them along with interest. The reliefs claimed by the petitioners in their OA being OA No.1640 of 2006, were as under:-

“8.1 That the Hon’ble Tribunal may be graciously pleased to allow this application and direct the Respondents to extend the benefit of the judgment of this Hon’ble Tribunal upheld by the Hon’ble High Court of Delhi and also direct the Respondents to recompute the pensionary benefits of the Applicants as per the C.C.S (Pension) Rules.

8.2 That the Hon’ble Tribunal may be further graciously pleased to direct the Respondents to revise the pensionary benefits so fixed once again with effect from 01.01.1996 as per the Fifth Pay Commission recommendations.

8.3 That the Hon’ble Tribunal may be further graciously pleased to pay interest at the rate of 9% p.a on the arrears from the date of the amounts due till the date of actual

payment, as has been decided by the Hon'ble High Court of Delhi.

8.4 That the Hon'ble Tribunal may be further graciously pleased to grant any other or further relief which it deem fit and proper on the facts and in the circumstances of the case.

8.5 That the Hon'ble Tribunal may be further graciously pleased to award exemplary costs against the Respondents in favour of the Applicants."

9. The Tribunal while allowing the OA of the respondents had granted the following reliefs:-

"26. In the light of the foregoing discussion and after a careful consideration of the entire conspectus of the case, the O.A is allowed with the following directions:-

a) The three PPOs dated 30.10.2006 are quashed and set aside.

b) Respondents are directed to revise/refix the pension of the applicants strictly in accordance with the options exercised by them and in accordance with the CCS (Pension) Rules, 1972 as well as the terms and conditions of the Vth CPC.

c) 9% interest on arrears payable to the applicants from the date it became due and till the date of payment.

d) Applicants be compensated by payment of Rs.10,000/- each by the respondents.

e) The above directions are to be complied with within one month from the date of receipt of a copy of this order."

10. From the above, it is apparent that the Tribunal had granted 9% interest on arrears payable to the applicants from the date it became due till the date of payment.

11. Aggrieved by the order of the Tribunal granting the above noted reliefs, the petitioners have filed a writ petition being W.P.(C) No.5687 of 2007, titled 'Director General Civil Aviation v. Iqbal Singh Vedi' in which matter Rule D.B. was issued on 21st July, 2008.

12. In the said writ petition, on behalf of the respondents reliance was placed on an order passed in a similar writ petition being No.4073 of 2007 in which the petitioners were directed to implement the order passed by the Tribunal subject to employees' undertaking that in the event of the matter going against the employees, the excess amount if any, paid to them shall be recovered from their pension.

13. On behalf of the respondents, it was contended on 13th December, 2007 in W.P.(C) No.5687 of 2007, titled 'Director General Civil Aviation v. Iqbal Singh Vedi' that the respondents are ready to give undertaking that in the event of matter going against them, the excess amount, if any, paid to them shall be recovered from their pension. In the circumstances Court by order dated 13th December, 2007, in W.P.(C) No.5687 of 2007 had directed the petitioners to implement the directions issued by the Tribunal subject to respondents filing undertaking before the Court to the agreed terms and conditions.

14. The petitioners had also filed an application being CM No.10558 of 2007 in W.P.(C) No.5687 of 2007 for stay of the order dated 4th June, 2007 which was however, declined holding that the parties shall be bound by the order dated 13th December, 2007.

15. Consequently, the petitioners became liable to pay the amounts to the respondents in terms of order dated 4th June, 2007 which also included 9% interest on arrears payable to the respondents from the date it became due till the date of payment.

16. This cannot be disputed by the petitioners that the arrears became due to the respondents from December, 1990. If the arrears have become due from December, 1990 and the said order has not been stayed and in any case, the amount of interest if paid from the December, 1990 till December, 1995 will be in excess of the amount payable to the respondents, rights of the petitioners have been protected and therefore, the petitioners cannot have any grievance about it.

17. The plea of the learned counsel for the petitioners that the Tribunal has antedated data where from revised pension was to be paid is also not born from the record. The claim of the respondent in the OA No.1640 of 2006 was for revision of pension w.e.f. 1990 as they stood retired by then and the pay scales were revised by petitioner vide letter

dated 05.03.1999 with retrospective effect i.e. w.e.f 02.10.1989 and further revision w.e.f. 01.01.1996 as per 5th Pay Commission recommendation. The same is allowed by the Tribunal vide judgment dated 04.06.2007. The Tribunal rather decided that interest at 9% p.a. is payable from the date the amounts become due till the date of payment. This finding of the Tribunal in its order dated 4th June, 2007 was not challenged by the petitioners in the writ petition being WP(C) 5687 of 2007 filed by the petitioners. In the circumstances, by no stretch of arguments, it can be held that the Tribunal has antedated data while disposing of the contempt petition. Against the order of the Tribunal granting interest from the date the arrears have become due the petitioners have filed a writ petition in which the original order dated 4th June, 2007 has not been stayed. In the circumstances in the contempt petition if the Tribunal has directed the petitioners to pay the interest from the date arrears have become due, the petitioners cannot be allowed to contend that the Tribunal has antedated the data or in exercise of its contempt jurisdiction has modified or altered the original order which was sought to be implemented.

18. In the circumstances, it cannot be held that the petitioners are not liable to pay interest at 9% per annum from December, 1990 till December, 1995 subject to the undertaking given in W.P.(C) No.5687 of 2007, nor it can be held that the order of the Tribunal suffers from any such illegality, or perversity which shall require any interference by this

Court in exercise of its jurisdiction under Article 226 of the Constitution of India. The writ petition in the facts and circumstances, is without any merit. It is therefore, dismissed. The parties are however, left to bear their own costs.

ANIL KUMAR, J.

February 07, 2011.
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VEENA BIRBAL, J.