HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND
HON'BLE SMT JUSTICE ANIS

WRIT PETITION No.13908 OF 2015

O R D E R: *(per Hon'ble Sri Justice Nooty Ramamohana Rao)*

The Union of India filed this Writ Petition against the Order dated 16.07.2014 passed by the Central Administrative Tribunal, Hyderabad Bench, in Original Application No.1092 of 2012.

The first respondent herein, who worked as a Cantonment Executive Officer, instituted the said Original Application. It is his case that he joined the Indian Defence Estate Service in the year 1964 and retired from service on attaining the age of superannuation on 31st May, 2000. He worked as Defence Estate Officer at Jabalpur Cantonment from July 1992 to June 1993 and for certain failures committed by him, the Central Bureau Investigation registered a case and charge sheeted him before the Special C.B.I Court, Jabalpur, vide Sessions Case No.2 of 2000 and for the very same allegations spelt out in the charge sheet filed, he was also subjected to disciplinary proceedings on 17.07.2006. The Criminal Court acquitted the first respondent herein. The disciplinary proceedings have also ended exonerating him. In spite of the same, the first respondent herein has not been released the encashment value of the Earned Leave, which was accumulated and surrendered as on 31st May, 2000. But, however, an amount of Rs.1,77,114/- was paid on 09.09.2010. That payment was made pursuant to the Order passed by the Central Administrative Tribunal, Hyderabad Bench, in Original Application No.105 of 2010. Since no interest has been paid on the leave encashment amount, he once again filed Original Application No.1092 of 2012 and it was disposed of by the Tribunal on 16th July, 2014 in the following terms:

> *"In view of the facts and circumstances of the case,*

we direct the respondents to pay interest @ 10% p.a on Rs.1,77,114/- from 01.06.2000 to 09.09.2010 together with further interest @ 10% p.a on Rs.3,27,483/- which was due to be paid at the time of actual payment of leave encashment, duly calculating the interest as above from 10.09.2010 onwards till the payment is made."

It is this Order which is challenged.

Heard Sri G.Venkateswarlu deputising for Sri B.Narayana Reddy, learned Assistant Solicitor General, and Sri K.R.K.V. Prasad, learned counsel for the first respondent and with their consent, we have heard the matter finally and are disposing of by this order.

Since there is no justifiable reason offered for non-payment of the Earned Leave encashment component, which worked out Rs.1,77,114/- till 09.09.2010, which is nearly 10 years after he has retired from service on 31st May, 2000, there appears to be some justification for payment of interest. The interest was now directed to be paid for the period from 01.06.2000 to 09.09.2010. The payment of encashment of leave component does not become due as on 1st June, 2000 itself when the first respondent herein retired from service on the afternoon of 31st May, 2000. Ideally speaking, the payment should have been made no doubt on 1st June, 2000, but a reasonable period of three months at least should be allowed to the authorities for calculating and settling the said benefit. Therefore, for the purpose of calculation of interest, the period between 1st June 2000 upto 31st August, 2000 should have been dis-counted as a period of three months, would have been a reasonable period for settling the terminal benefits after verification of the service record of the individual concerned, otherwise if a wrong payment is made resulting in excess payment, it would become difficult for recovering the same from a pensioner at a later point of time. Therefore, the claim as allowed by the Tribunal for payment of interest with effect from 1st June, 2000 itself is clearly erroneous and unsustainable. The period for payment of interest should have been commenced or calculated from 1st September, 2000 and it should have stopped at 8th September 2010, the preceding day of its actual payment. The Tribunal has awarded interest at 10% p.a thereon. No Nationalized Bank, in the post 2000 economic scenario, is awarding interest at 10% p.a on long term fixed deposits. Therefore, taking the age of the respondent herein, (he answering the description of Senior Citizen), payment of interest should have been confined to 9% p.a at best.

What was really intriguing is the next component of the Order passed by the Tribunal. It has calculated the interest at 10% p.a payable on the sum of Rs.1,77,114/- upto 08.09.2010 as Rs.3,27,483/- and on that component again, interest at 10% p.a was awarded from 09.09.2010. In other words, interest on interest is awarded by the Tribunal for the period covering from 1st June 2000 onwards. Interest on interest is normally awarded if a clause in any contract between a creditor and debtor allows them to do so. Otherwise, compounding interest is not liable to be paid in all other normal transactions of monies due. We are therefore of the view that the Tribunal has exceeded its jurisdiction in awarding interest on interest by directing the petitioners herein to pay interest at 10% p.a on Rs.3,27,483/-. We, therefore, have no hesitation to set aside this later portion of the Order of the Tribunal as no interest on interest can be awarded in non-commercial transactions. We grant two months time from today for calculating the interest payable from 01.09.2000 upto 08.09.2010 @ 9% p.a on leave encashment amount of Rs.1,77,114/- and the same shall be paid to the first respondent by way of Account Payee Demand Draft drawn in any Nationalized Bank or by way of Wire transfer to his pension account.

With this, the Writ Petition is disposed of. No order as to costs.

The miscellaneous petitions, if any, pending in the Writ Petition, shall stand closed.

JUSTICE NOOTY RAMAMOHANA RAO

JUSTICE ANIS

Date: 04.08.2015
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