

Central Administrative Tribunal
Principal Bench

OA No. 2592/2002

New Delhi this the 25th day of June, 2003

Hon'ble Shri V.K. Majotra, Member (A)

S.C. Saxena
S/o late Shri Prem Chand
c/o Shri Vivek Saxena,
House No.668,
Lodhi Road Complex,
New Delhi-110 003.

-Applicant

(None Present)

Versus -

1. Union of India,
through the Chairman,
Railway Board, Rail Bhawan,
New Delhi.

2. The General Manager,
Western Railway,
Churchgate, Mumbai.

-Respondents

(By Advocate: Shri H.K. Gangwani)

ORDER (Oral)

Applicant was not present even on the last date of hearing, i.e., on 24.6.2003. I proceed to dispose of this OA in terms of Rule-15 of Central Administrative Tribunal (Procedure) Rules, 1987 after considering the respective pleadings of the parties, material on record and hearing Shri H.K. Gangwani, learned counsel of respondents.

2. Applicant has challenged respondents' order dated 8.11.2001 alleging that several retiral dues have been denied to him. Applicant was working as Assistant Engineer with the respondents when he was served with a charge sheet dated 10.3.1993 a couple of months before his retirement ^{on} ~~on~~ 30.6.1993. The alleged charge

against the applicant was that he had remained absent unauthorisedly. On 4.12.2000, applicant was informed that the competent authority has conveyed Government displeasure in the disciplinary enquiry against him. During the pendency of the enquiry, applicant had filed OA-552/1995 claiming various retiral benefits with interest. That OA was decided on 16.4.1996 allowing certain retiral benefits and respondents were directed to complete applicant's departmental enquiry within a period of four months as also that directions in regard to the retiral benefits shall also be implemented within a period of three months. This time applicant has sought the following reliefs:-

"i) Quash the order dated 8.11.2001 issued by the respondents-Railway Department;

ii) Direct the respondent-Railway Department to revise pension payable to the applicant after promotion to the petitioner in the pay scale of Rs.10,000-325-15200 with effect from 3rd February, 1993, i.e., the date on which his juniors were promoted in the senior scale of Divisional Engineer, as per the Fifth Pay Commission and to pay the same with 24% interest;

iii) Direct payment of Death cum Retirement Gratuity to the applicant which was issued on 30.6.1993 amounting to Rs.54,450/- with a penal interest @ 24% interest from the date when payable till payment is made;

iv) Direct payment of Rs.69,036/- being the commuted pension which has been accepted in the PPO dated 16.7.2001 along with penal interest of 24%;

v) Direct payment of dues on leave encashment, wages for 26.2.1993 to 30.6.1993 and transfer and packing allowance;

vi) Direct payment of all retiral benefits which accrue on promotion of the applicant as per prayer clause(ii);

vii) Payment of salary, DCRG, pension and other retiral benefits to be paid to the

applicant on the basis of the Railway Board Circular dated 14.9.1966;

viii) Direct the payment of all the consequential benefits; and

ix) pass such other and further order(s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of this case".

3. Learned counsel for respondents Shri H.K. Gangwani has taken exception to the OA on the ground of multiple reliefs. Having gone through the reliefs claimed by the applicant, I find that whereas various reliefs are consequential to one another excepting the relief relating to promotion and consequential fixation of pay and revision of pension and other retiral benefits dependent thereupon, applicant had retired on 30.6.1993. ~~He~~^b cannot be allowed to rake up the issue of promotion at this stage as such relief relating to this aspect cannot be considered. However, the remaining reliefs being consequential to one another have to be adjudicated upon.

4. Learned counsel of the respondents further stated that as the applicant has not been completely exonerated in the disciplinary enquiry against him, various reliefs claimed by the applicant cannot be accorded to him. He could have been entitled to such reliefs only if he was exonerated fully. ~~Applicant was conveyed Government dispensation in D.E. vide letter dt. 10.11.2000 as per Annexure A-1, dt. 4/12.2000. b~~

5. Applicant's revised pension was fixed vide PPO No.177858 dated 16.7.2001. Vide Annexure A-11 dated 8.11.2001, applicant was informed by respondents that commutation amount calculates to 33%, his retirement date being 1.7.1993, and not 40% because 40%

b

commutation amount is payable to employees after the Fifth Pay Commission.

6. Applicant has taken a plea in the OA that the stagnation increment granted to applicant prior to his retirement has not been taken into account by fixing his pension. I have looked at the PPO dated 16.7.2001. At the time of superannuation, the applicant was placed in the scale of pay of Rs.7500-12000 as per the Fifth CPC recommendations. Average emoluments as per last pay drawn by him have been shown as Rs.13300/-. It seems that the stagnation increment had been taken into account while fixing his pension.

7. Having regard to the discussion made above, while the applicant may not be entitled to any revision of retiral benefits, there is a complete justification in granting interest to the applicant on delayed payment of various retiral benefits in terms of order dated 16.4.1996 in OA-552/95. Respondents had been directed to implement the directions contained in that order in respect of the retiral benefits of the applicant within a period of three months from the date of receipt of a copy of that judgment. Respondents did not decide these issues till the finalisation of the D.E. against him which was finally decided in November, 2000 and thereafter PPO was issued in favour of the applicant on 16.7.2001. Applicant is certainly entitled to interest on the late payment of various retiral dues from completion of a period of three

16

months from the date of receipt of a copy of Tribunal's order dated 16.4.1996 till the date of payment of the retiral dues.

8. In my view, interest of justice would be served if respondents are directed to pay an interest @ 10% per annum on applicant's retiral dues for the period from July 1996 till the time the payments were actually made. Ordered accordingly. Respondents are further directed to make the above payments within a period of three months from the date of communication of these orders.

9. OA is disposed of in the aforestated terms. No costs.

V.K. Majotra

(V.K. Majotra)
Member (A)

cc.