

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1522/99

New Delhi this the 5th day of April 2000.

Hon'ble Dr. A. Vedavalli, Member(J)

Nand Lal,
S/o Sh. Punu Ram,
C/o B-8-60, Sector-4,
Rohini, Delhi-85. Applicant

(through Sh. S.K. Gupta, proxy for Sh. Pratap Rai,
Advocate)

Versus

1. Union of India through
the General Manager,
Northern Railway,
Baroda House,
New Delhi-1.
2. The Divl. Railway Manager,
Northern Railway,
Bikaner Division,
Bikaner. Respondents

(through Sh. Anil Singhal, proxy for Sh. VSR
Krishna, Advocate)

ORDER

Learned proxy counsel on instructions from the regular counsel of the applicant submits that the respondents have not filed any reply to the O.A. and the present case can be disposed of on the basis of materials papers available on record. Learned proxy counsel appearing on behalf of respondents counsel has no objection to the same. In the circumstances, this O.A. is being disposed of on the basis of the pleadings and material papers available on record.

2. The applicant, Nand Lal, is a retired Government employee. He retired from railway service from the post of Cashier on 31.1.98 after attaining the age of superannuation. His grievance as per the

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submissions made in the O.A. is that the respondents have with-held the payment of his gratuity and pension commutation for a long time illegally without jurisdiction and have not paid any interest on the said payments payable to him on the due date.

3. According to the applicant, the death-cum-retirement gratuity was paid to him on 15.2.99 and another amount due to him on account of commutation of his pension was paid to him on 9.4.99. He is seeking in this O.A. a direction to the respondents to pay him interest which according to him amounts to Rs.52,772/- at the rate of 18% per annum from the due date. He has also submitted that even though he served a legal notice dated 1.6.99 (Annex.A-2) on the respondents, there was no response from them in this connection.

4. The applicant has not filed any documents to show the specific dates of receipt of the aforesaid payments made to him by the respondents. The document which he filed at Annex. A-1 stating that it is a copy of statement of Bank Account, does not even indicate the name of the concerned Bank and its Branch and also the relevant date and period. There is no document on record which shows the payment of his regular pension. The photocopy of the Pension Payment Order No. 0198040173 (Annex. A-3) does not bear any date and the type of pension is mentioned as "Provisional

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Pension". It does not even indicate the amount of commuted portion of his pension. Only original pension of Rs. 2913/- is mentioned in the said order. The applicant has also not placed on record any factual information as to the final Pension Payment Order issued to him, if any. He has also not given any reasons as to why he has not submitted any representation to the respondents regarding his grievances till he served a legal notice on them dated 01.06.99 (Annex. A-2) whereas he retired from service on 31.01.98. The factual position given by the applicant in this O.A. is neither specific nor complete and is very sketchy and vague. There is no counter reply by the respondents on record also as they have forefeited their right to file the same by an earlier order of this Tribunal dated 22.02.2000. The actual dates of payments of the gratuity, the amount of commuted pension and the reasons for the alleged delay in making the said payment to the applicant are not known.

5. Coming to the relevant rules relating to the claim of the applicant regarding the payment of interest on gratuity, it is seen that Rule 85 of the Railway Services (Pension) Rules, 1993 is as under:-

"Authorisation of Pension and gratuity
by the Accounts Officer.

- (1) (a) On receipt of pension papers
referred to in rule 81, the
Accounts Officer shall apply the
requisite checks, record the



account enfacement in Part II of Form 7 and assess the amount of pension and gratuity and issue the pension payment order not later than one month in advance of the date of the retirement of the railway servant if the pension is payable in his circle of accounting unit.

- (b) If the pension is payable in another circle of accounting unit, the Accounts Officer shall send the pension payment order along with a copy of Form 7 and the accounts enfacement to the Accounts Officer of that for arranging payment.
- (2) The amount of gratuity as determined by the Accounts Officer under clause (a) of sub-rule (1) shall be intimated to the Head of Office with the remarks that the amount of gratuity may be drawn for disbursement to the retired railway servant after adjusting the Government dues, if any, referred to in rule 15.
- (3) The amount of gratuity withheld under sub-rule (5) of rule 16 shall be adjusted by the Head of Office against the outstanding licence fee intimated by the Directorate of Estates and the balance, if any, refunded to the retired railway servant." (emphasis added).

6. Rule 87 of the aforesaid rules reads as follows:-

"Interest on delayed payment of gratuity

- (1) If the payment of gratuity has been authorised after three months from the date when its payment became due on superannuation and it is clearly established that the delay in payment was attributable to administrative lapse, interest at such rate as may be specified from time to time by the Central Government in this behalf on the amount of gratuity in respect of the period beyond three months shall be paid:

[Handwritten signature]

Provided that the delay in the payment was not caused on account of failure on the part of the railway servant to comply with the procedure laid down in this Chapter.

- (2) Every case of delayed payment of gratuity shall be considered by the General Manager or Administrative Head of the Railway Unit, as the case may be, and where the said General Manager or Administrative Head is satisfied that the delay in the payment of gratuity was caused on account of administrative lapse, he shall order for arranging the payment of interest. The powers to pass order for payment of interest on delayed payment of death-cum-retirement gratuity shall rest with General Manager or Administrative Head of the Railway Unit and shall not be delegated to any lower authority.
- (3) In all cases where the payment of interest has been ordered, the railway shall fix the responsibility and take disciplinary action against the railway servant or servants concerned who are found responsible for the delay in the payment of gratuity.
- (4) If as a result of Government's decision taken subsequent to the retirement of a railway servant, the amount of gratuity already paid on his retirement is enhanced on account of-
 - (a) grant of emoluments higher than the emoluments on which gratuity already paid was determined, or
 - (b) liberalisation in the provisions of these rules from a date prior to the date of retirement of the railway servant concerned, no interest on the arrears of gratuity shall be paid.
- (5) Gratuity becomes due immediately on retirement and in case of a railway servant dying in service, action for finalising his pension and death-cum-retirement gratuity shall be taken in accordance with the provisions of Chapter IX."(emphasis added).



7. The applicant has not made ^{any} ~~any~~ any submissions in the O.A. as to which provision of the aforesaid Rules or any other relevant Rule has specifically been violated by the respondents. Regarding the applicant's claim as to the interest on commuted amount of pension, it is seen that there are several provisions under the Railway Services (Commutation of Pension) Rules, 1993, which deal with the procedure for payment of the pension commutation amount. However, there does not appear to be any specific provision regarding payment of interest on any delayed payment relating to commuted pension as is the case with the delayed payment of gratuity as noted above.

8. The applicant has placed reliance on the judgement of the Hon'ble Supreme Court in the case of State of Kerala & Ors. Vs. M. Padmanabhan Nair (1985(1)SCC 429) and in the case of R. Kapur Vs. Director of Inspection, Income Tax and Anr. (1995(1)LLJ 884 (Annex.A-5)). However, the applicant has not given any clear picture about the factual position alongwith the supporting documents as to how the alleged delay in making the payments was attributable to administrative lapse and was not caused by any failure on his part to comply with the prescribed procedure. In the above facts and circumstances, the judgement of the Supreme Court in M. Padmanabhan Nair's case (supra) will not help him. The other case of R. Kapur's (supra) does not

appear to be applicable as the said decision deals with withholding of gratuity for non vacation of Government accommodation and for not paying damages under the relevant rules whereas in the present O.A., the applicant has not given any facts and material showing that the gratuity in his case was withheld by the respondents due to non-vacation of Government quarter. Moreover, the applicant is a railway servant.

9. In view of the foregoing discussion and on a careful consideration of the matter, I am of the opinion that the O.A. is devoid of any merit and deserves to be rejected. Accordingly, O.A. is dismissed. No costs.

A. Vedavalli
5/4/2000
(Dr. A. Vedavalli)
Member(J)

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