

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.851/1999

New Delhi, this 17th day of October, 2000

Hon'ble Shri M.P. Singh, Member(A)

(20)

Gulzar Singh  
12, Chelmsford Road  
New Delhi

.. Applicant

(By Shri K.N.Rai, Advocate)

versus

Union of India, through

1. General Manager  
Northern Railway, Delhi

2. Divisional Railway Manager  
Northern Railway, Ferozpur

3. Divisional Personnel Officer  
Northern Railway, Ferozpur .. Respondents

(By Shri R.L. Dhawan, Advocate)

ORDER(Oral)

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking directions to the respondents to pay DCRG, leave encashment with interest thereon and interest on delayed payment of pension and SRPF for the period from 1985 to 1988.

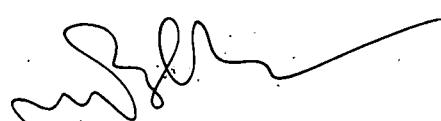
2. Brief facts of the case are that the applicant was appointed as Gangman in the Civil Engineering Department for maintenance of railway track on 4.4.59. He was subsequently appointed as Permanent Way Inspector in 1972 and was posted at RS/Jandiala. On 3.6.1983, 197 Shane-Punjab Superfast Express train passed over gate No.27 and after passage of the whole train, the last four wheels of the rear (last) trolley of the last coach of the train got derailed. The applicant was suspended. A charge-sheet was served on him. After following the procedures laid down under the Railway Servants (Punishment & Appeal) Rules, the applicant was retired from



service compulsorily vide order dated 14.2.85. Applicant preferred an appeal which was duly considered by the competent authority who did not find any justification to revise the order already passed and accordingly rejected the appeal. Applicant challenged the order of punishment through OA No. 276/87 which was disposed by the Tribunal vide order dated 19.8.93. The Tribunal quashed the order passed by the appellate authority and directed to pass an order afresh on merit and in accordance with law after hearing the applicant in person. In compliance with the judgement dated 19.8.93, the appellate authority considered the appeal of the applicant but did not find any justification to revise the order already passed. (21)

3. Applicant filed OA No. 748/94 challenging the order of appellate authority, which was dismissed by the Tribunal on 26.9.97. He preferred RA 278/97 which was also dismissed by the Tribunal on 20.11.97. Thereafter, the applicant filed Civil Writ Petition before the Delhi High Court which is still pending.

4. According to the respondents inventory of stores which was under the charge of the applicant was taken in the presence of AEN/PTK, PWI Dhariwala, SI, RPF and Stock Verifier vide report dated 9.10.85, wherein certain shortage of stores of the value of Rs.6,51,367 were found, According to the respondents, an amount of Rs.12,543 as gratuity and Rs.10,017 as leave encashment were admissible to the applicant. Both these amounts have been adjusted by the respondents towards the recoveries due from the applicant. They have stated that the applicant is required to deposit the balance amount with the Railway Administration. In terms of Rule 15 of Railway Services (Pension) Rules, 1993



21

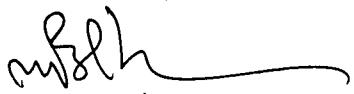
government dues including losses on account of shortage of stores are recoverable from the gratuity normally admissible to a government servant. They have also submitted that government dues are recoverable from leave encashment in terms of Railway Board's instructions circulated under Northern Railway Printed Sl.No.8459 (Annexure R-4). In view of the aforesaid position, the OA is devoid of merits and is liable to be dismissed.

6. Heard the learned counsel for the parties and perused the records.

7. It is an admitted fact that the applicant has not been paid his entitlement of gratuity as well as leave encashment after retirement. The contention of the respondents that the applicant ought to have approached the Tribunal within the period of limitation is not tenable as the law laid down by the Apex court in this regard is that the retirement benefits are continuous cause of action. The applicant was compulsorily retired from service on 14.2.85. It is also noted that at the time of retirement, respondents have not raised the question of shortage of stores. It was only on 9.10.85 they have verified the stores and prepared report showing shortage of 288 wooden sleeper and 10 railpiece four and half inches. They have taken 8 months after the applicant had retired and verification of stores had been made "at his back. It is not clear as to how the respondents have held the applicant responsible for the shortage of stores during the period from 15.2.85 to 9.10.85 when he was not in service. Retirement benefits of a government servant including gratuity and leave encashment can be claimed as a <sup>matter of</sup> right as per law laid down by the Apex court in a large number of cases.



8. In view of the above legal position and also of the fact that verification was done during the period when the applicant was not in service, the OA is allowed. Respondents are directed to release the retirement dues of the applicant including gratuity and leave encashment with 10% interest from the date they were due to the actual date of payment within a period of three months from the date of receipt of a copy of this order. No costs.

  
(M.P. Singh)  
Member(A)

/gtv/