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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No. 1112/98

New Delhi: this the 11th day of March, 1999.

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

Shri K.K. Sandal,
S/o Pt. Thakur Dass Sharma,
Retired Asstt. Engineer(Construction),
Under Chief Administrative Officer

(Construction), Northern Railway,
Kashmere Gate, Delhi

R/O House No.1, Road No.9,
Punjabi Bagh Extension,
New Delhi-110026

.... Applicant.

(By Advocate: Shri S.K. Sawhney)

Versus

Union of India through
General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. Chief Administrative Officer(Construction),
Northern Railway,
Kashmere Gate,
Delhi.

.... Respondents.

(By Advocate: Shri R.L. Dhawan)

ORDER

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

Applicant seeks interest @ 12% per annum
on alleged delayed payment of retiral benefits of
Rs. 1,21,676/- for the period from 1.4.92 to the date
of payment in December, 1997.

2. Heard both sides.

3. Respondents in reply have taken the
preliminary objection that this OA is hit by the
doctrine of Res Judicata in the background of
OA No. 683/97 filed by applicant earlier, which was
disposed of by order dated 5.6.97 (Annexure-A-4).

Reliance in this connection has been placed on the

Hon'ble Supreme Court's judgment in Commissioner of Income

Tax Vs. T.P. Kumaran SLJ 1996(3) SC 101.

4. Applicant in rejoinder has denied this contention and asserts that the cause of action for claiming interest accrued to him only after the implementation of the aforesaid order dated 5.6.97.

5. I am satisfied that applicant's claim is squarely hit by the ratio of the Hon'ble Supreme Court judgment in Kumaran's case (supra). In that case Shri Kumaran was dismissed from service, against which he filed a suit which was decreed and he was reinstated. As the arrears were not paid he filed a writ petition in the High Court who by orders dated 16.8.82 ordered that he be paid all his arrears. That order became final and his arrears were paid to him. Thereupon Shri Kumaran filed an OA claiming interest at 18% p.a. The Tribunal directed payment of interest against which an SLP was filed. The Hon'ble Supreme Court held that the Tribunal had committed a gross error in law in directing payment of interest as the claim was barred by constructive Res Judicata under section 11 Explanation IV C.P.C., and even otherwise the claim was barred under Order 2 Rule 2 CPC.

6. In his rejoinder applicant admits that the earlier OA No. 483/97 was for early disposal of the disciplinary proceedings as well as for payment of retiral benefits, and under the circumstance it was open to him to have also claimed interest for the delay in release of his retiral benefits consequent to the non-disposal of the disciplinary proceedings against him. His claim for

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interest in the present OA is therefore squarely hit by the ratio of judgment in Kumaran's case (supra).

7. Shri Sawhney has sought to argue the case on merits and in this connection has cited various rulings, including those reproduced in SLJ 1987 (Part III) page 207; 1991 (Part I) AJ 438 and 1991 (Part II) AJ 611 but as the preliminary objection raised by respondents that the OA is hit by the doctrine of Res-Judicata succeeds. I do not consider it necessary to discuss the merits of the claim.

8. The OA is therefore dismissed. No costs.

Adige
(S. R. ADIGE)
VICE CHAIRMAN (A).

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