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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1596/1998

New Delhi, this 11th day of September, 2000

Hon'ble Smt. Shanta Shastry, Member(A)

Prem Shankar Shukla  
through LR Munni Shukla  
127/521, W Block, Keshav Nagar  
Kanpur

.. Applicant

(By Shri G.D.Bhandari, Advocate)

versus

Union of India, through

1. General Manager  
Northern Railway  
Baroda House, New Delhi
2. Divisional Railway Manager  
Northern Railway, Allahabad .. Respondents

(By Shri B.S.Jain, Advocate)

ORDER

The applicant in this case, who is the legal heir to Shri P.S.Shukla, has prayed for payment of commuted value of pension from the date of acceptance of his request with 24% interest per annum, and 24% interest on all retirement dues from the date of applicant's retirement to actual date of payment and also make payments of providing fund and voluntary provident fund contributed by the applicant between 31.7.1984 to January, 1989.

2. The original applicant was initially appointed as Assistant Charge man on 11.7.58 in the Electrical Branch, Allahabad Division and was working as Assistant Electrical Engineer in Allahabad on Group B post when he was sent on deputation to IRCON in administrative interest. He was relieved from the Railways on 17.8.81 and he joined IRCON on deputation initially for one year but he was allowed to continue in IRCON till his

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retirement. Finally he was permanently absorbed vide order dated 25.5.93/3.6.93 in IRCON retrospectively with effect from 31.8.84 in terms of Railway Board's letter dated 24.9.92. The applicant finally retired on superannuation on 31.7.94. Pension payment order (PPO, for short) was issued on 21.1.97. He submitted representation on 31.3.97 giving details of various payments received by him belatedly and requested for interest. He also submitted that his subscription towards provident fund and voluntary provident fund deducted by IRCON and remitted to Divisional Authorities, Allahabad have neither been accounted for in his credit nor the full payment has been made to him. The Railways have made payment of PF/VPF on deemed retirement date i.e. 31.8.84 while he should have been paid upto January, 1989 as deductions have been made from his salary and were passed on to the Divisional authorities upto that period. He has produced a statement given by IRCON in this respect. As per Railway Board's instructions on the issue of delayed payment after retirement, it is provided in circular dated 1.11.94 that interest at the rate of 12% p.a. is applicable on PF deposit. Applicant is aggrieved that in spite of long delay of 12-14 years all the retirement dues have still not been settled to his satisfaction.

3. Learned counsel for the respondents submits that the applicant himself is responsible for the delay in finalising his case of absorption in IRCON. He opted for permanent absorption in IRCON w.e.f. 31.8.84 through his letter dated 20.10.84. This was considered and approval was given w.e.f. 31.8.84 as per his option conveyed on 13.6.85. Service particulars had to be

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furnished by the applicant who took considerable time. After muchchasing with the applicant, the terms and conditions of the absorption of the applicant in IRCON were issued on 24.9.92. Thereafter, the applicant retired on superannuation on 31.7.94. Respondents submit that as per applicant's own admission, the applicant has received the amount of leave encashment, gratuity, an amount of Rs.24,439 towards PF/VPF and amount of Rs.,2,33,801 towards pension from September, 1984 to March, 1997 and thereafter he is receiving regular pension. Applicant states that he had applied for 1/3rd commutation of his pension. Unfortunately his PPO dated 27.12.96 does not mention commutation of 1/3rd of pension. In fact the order shows full pension with pension relief to the applicant. No commuted value is mentioned or deducted. Even the arrears have been paid. Therefore his claim for commutation of 1/3rd of pension is not tenable. As far as PF/VPF are concerned, the same has been paid on 24.2.97. therefore, nothing really is due to be paid to the applicant.

4. Learned counsel for the respondents has also raised the plea of limitation. The applicant was absorbed in IRCON with effect from 31.8.84 vide order dated 13.6.95. He did not make efforts to get his retiral benefits immediately. Rather he delayed the processing of the service particulars nor did he approach the Tribunal immediately after 31.8.84 or even in 1992 or even after retirement from IRCON in the year 1994. The OA has been filed in 1998. There is no application for condonation of delay and therefore the application is not maintainable.

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5. I have heard both the learned counsel for the parties. According to the applicant, out of the retirement dues only two items remain namely commuted value of pension and PF/VPF for the period from 31.8.84 to 1989 during which periods the amounts deducted were credited to the Allahabad Division. The applicant has also claimed interest on delayed payments.

6. As far as the point of limitation is concerned, since this relates to retiral benefits, limitation should not be a bar. In the case of pension and other retiral dues, the starting point for delay is from the date the applicant actually submits the relevant papers in the prescribed form and when the pension is sanctioned. In the instant case, it is only in 1997 when the formalities seem to have been completed and the applicant has received PPO. I find that all the retirement benefits have been paid to the applicant between 30.12.96 and 24.2.97, except commuted value of pension and the balance PF/VPF.

7. Applicant should have raised the issue of interest at the time when he received his dues. Apparently he did not do so at that time. raise this issue. Instead he has filed OA on 17.8.98 i.e. more than one year after receipt of retirement dues. As rightly pointed out by the respondents, he also did not challange the PPO. However, the the applicant has represented to the Railways on 24.3.98 for settlement of retiral dues stating that he had still not received the balance amount of PF/VPF and also claimed interest on the delayed payment. It is really surprising that there is no mention of commuted value of pension in the PPO.

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Respondents could not throw any light on the non-payment of commuted value of pension as also on the balance amount of PF/VPF as claimed by the applicant.

8. I find that the respondents have rightly settled all his dues and pensionary benefits. The applicant has not shown any details of when he filled the relevant forms and completed the formalities for receipt of pension and pensionary benefits. In the absence of which it is difficult to assess as to who is responsible for the delay. His orders of absorption in IRCON were passed on 13.6.95. The respondents have categorically stated that the applicant delayed in furnishing his service particulars. Applicant has no explanation for this. Therefore I am not inclined to order any interest on the payment already received by the applicant between 30.12.96 and 24.2.97. However, since no explanation could be given about the commuted value of pension and the balance payment of PF/VPF, the applicant is directed to make a detailed representation to the respondents within a period of one month from the date of receipt of a copy of this order. Respondents shall consider the same and take appropriate action as per rules and communicate their decision to the applicant within two months thereafter. If the applicant is still aggrieved, it is open to him to approach the appropriate forum if so advised. The OA is accordingly disposed off. No costs.

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(Smt. Shanta Shastry)  
Member(A)

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