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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2034/1998

New Delhi, this 14th day of September, 2000

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

P.C. Gupta

C-8/8792, Vasant Kunj

New Delhi-110 070

.. Applicant

(By Shri H.K. Gangwani, Advocate)

versus

Union of India, through

1. General Manager
Northern Railway
Baroda House, New Delhi

2. Divisional Railway Manager
Northern Railway
State Entry Road, New Delhi .. Respondents

(By Shri R.L. Dhawan, Advocate)

ORDER

In this case after a series of litigations the applicant had obtained relief in TA 8/92 whereby the termination dated 20.12.71 was quashed and he was deemed to have been continued in service. He was reinstated in service from 1.6.95 as Traffic Inspector, Meerut vide order dated 12.5.95. He again approached this Tribunal in No.1834/96 with the grievance that neither his pay has been fixed nor had he been given promotion in accordance with the extant rules and judgements of this Tribunal. He had also challenged that arrears of pay due to him for the period from 20.1.71 to 31.12.85 had still not been paid. That OA was decided in his favour on 31.3.97 and the respondents were directed to consider the case of the applicant for promotion to all the higher grades with reference to his juniors without considering any requirement of passing any qualifying examination; thereafter his pay would be refixed with

reference to his promotion and the arrears would be calculated and paid to him as well as retirement benefits within a period of 3 months thereafter. Further, it was directed that the arrears for the period from 1.1.71 to 31.12.85 shall be paid to him within three months along with 18% interest from 1.6.95 i.e. the date of reinstatement to the date of actual payment.

2. The applicant has once again knocked the doors of this Tribunal seeking the following reliefs: To direct the respondents to pay entire amount of retirement benefits and interest thereon on the delayed payment @ 18% p.a. and to pay salary for the period w.e.f. 4.7.95 to 30.6.96 alongwith interest @ 18% p.a.

3. Learned counsel for the applicant submits that despite representations and reminders, the Railway administration did not implement the judgement dated 31.1.97 mentioned above. Therefore, the applicant filed contempt petition No.199/97 against non-compliance of this judgement and the Tribunal ordered on 6.8.97 personal appearance of the respondents for wilful disobedience of the directions. Railway administration filed CWP No.330/97 before the Hon'ble Delhi High Court challenging the orders of the Tribunal dated 31.3.97. The High Court in their order dated 14.8.97 stayed operation of the directions (a) and (b) of the order dated 31.3.97. Thereafter, the applicant was paid interest @ 18% amounting to Rs.39,942 for the period from 1.6.95 to 13.2.97. Learned counsel submits that the intervening period from 6.3.72 to 1.6.95 had been treated as spent on duty for all purposes. However no leave has been credited to his leave account. Leave of

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300 days should have been credited to his account and leave encashment should have been paid to him as per instructions of the Railway Board but the same has not been paid so far. Secondly, in spite of producing medical certificates for the period from 4.7.95 to 30.6.96 i.e. total of 361 days he has not been paid salary for the said period. Nor has he been paid retiral benefits and interest on the delayed payment in accordance with the rules. He actually retired on 30.6.96 and therefore he is entitled for interest of 18% on the entire retiral benefits including leave encashment.

4. Learned counsel for the respondents has raised preliminary objection that the application is barred by resjudicata as also limitation and is not maintainable under section 21 of AT Act, 1985. Further the applicant has sought plural remedies which are not consequential to each other and the OA is therefore not maintainable under Rule 10 of CAT (Procedure) Rules, 1987.

5. Coming to the merits of the case, learned counsel for the respondents states that on retirement of the applicant on 30.6.96 all settlement dues as admissible to him under the rules had actually been paid to him and no more payment is due to him. The applicant remained absent from duty from 4.7.95 till date of retirement i.e. 30.6.96. He was due for payment only for 3 days LAP on 4.7.95 because he was sanctioned 3 days LAP/SRC from 4.7.95 to 6.7.95. Further period of 7.7.95 to 30.6.96 has been decided as leave without pay by the competent authority vide letter dated 11.6.96. According to Railway Board instructions printed at

Sl.No.11466 providing for accumulation of LAP upto 300 days and payment of leave encashment for upto 300 days are applicable from 1.7.97 while the applicant retired on 30.6.96. Therefore the applicant can not claim encashment for 300 days. He can only claim for 240 days.

6. Learned counsel further avers that the applicant has no claim for revision of pension, commutation and gratuity or interest as the same have already been paid to him and no further interest is due.

7. Learned counsel for the applicant is harping on leave encashment and interest @ 18% on revised gratuity, commuted value of pension and payment of difference.

8. I have heard both the learned counsel for the parties. I find that the applicant has already filed several litigations and in the last OA No.1834/96 all his prayers arising out of reinstatement in service have been considered carefully and suitable directions have been given by the Tribunal. There was however no specific mention of leave encashment. In the present OA he has raised the question of encashment of leave and interest on retiral benefits. Therefore it cannot be said that it is hit by resjudicata. Also it cannot be said that he is claiming plural reliefs as the reliefs claimed are interconnected and they flow from the main relief of fixation of pay and pension. However, as pointed out by the learned counsel for the respondents, applicant retired in 1996 and has approached this Tribunal in October, 1998. I find that he has represented on 30.10.97. He should have approached this

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Tribunal within 6 months from the date of representation. This has not been done. Since the matter relates to retiral benefits, I am inclined to overrule the objection of limitation.

9. On merits I find that the respondents have fully complied with the orders of the Tribunal dated 31.3.97 except for the directions which have been stayed by the High Court. As regards other reliefs claimed by the applicant, in view of the categorical averment of the respondents, I am satisfied that there is no case of payment of any interest or otherwise. Whatever reliefs by way of retiral dues were required to be granted were duly considered and allowed by the Tribunal in OA No.1834/96. I am not inclined to order any further relief by way of interest. However in case the applicant is entitled for any leave encashment and the same has not been paid, it may be got verified from his service records/leave account and payment ^{if due} made to him accordingly with 12% interest, from the date of retirement till the date of actual payment.

10. Thus the OA is partly allowed to the above extent. I do not order any costs.

Shanta Shastri

(Smt. Shanta Shastri)
Member(A)

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