

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

...

O.A.No.1230 of 1995

Dated New Delhi, the 4th day of June, 1996.

HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

Dr O. P. S. Luthra
S/o Shri S. R. Luthra
R/o M-33-A Medical Colony
near Divisional Railway Hospital
JODHPUR (Rajasthan)

... Applicant

By Advocate: Shri O. P. Khokha

versus

Union of India, through

1. The Chairman
Railway Board
Ministry of Railways
Rail Bhawan
NEW DELHI-110 001.

2. The General Manager
Northern Railway
Baroda House
NEW DELHI-110 001.

3. The Divisional Railway Manager
Delhi Division
Northern Railway
State Entry Road
NEW DELHI-110 001.

4. The Divisional Railway Manager
Bikaner Division
Northern Railway
BIKANER (Rajasthan).

... Respondents

By Advocate: Shri R. L. Dhawan

O R D E R (Oral)

Admit.

After hearing the parties, the matter being
within a short compass, is being disposed of by the
following order.

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The applicant was an Assistant Medical Officer in the Northern Railway. He successfully challenged the order of removal from service by the order of the Tribunal in TA-852/85 (CW-4011/82) dated 17.10.88. The punishment of removal from service was set aside and he was ordered to be reinstated with immediate effect and it was also held that he would be entitled to all consequential benefits including arrears of pay and allowances. The respondents' S.L.P. against the order in the Apex Court having failed, the applicant was reinstated in service on 30.10.89. Respondent No.1 directed the payment of arrears and fixation of pay by the order dated 30.12.91 (Annexure A-7). Subsequently, by the order dated 19.3.93 (Annexure R-1), the respondents on their own decided that the period from 27.11.82 to 29.10.89 i.e., the date of removal to the date of reinstatement of the applicant in service to be treated as duty and also allowed the pay fixation in terms of respondents letter of 5.12.91 and it was stated therein that the applicant was entitled to arrears of pay and allowances ~~in Class-I~~ from 24.12.82 to 29.10.89 and the difference in pay and allowances in Class-II already drawn and Class-I from 30.10.89 till the date of his taking over in Class-I as per the respondents letter dated 5.12.91 and he was also entitled to arrears of pay in Class-II from 27.11.82 to

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23.12.82. This order was actually given effect to by the Respondent No.3 in terms of fixing the rate of pay from time to time and was ordered that the payment of arrears should be arranged accordingly by the Respondent No.3 vide letter dated 8.7.93 (Annexure R-2). Ultimately, the applicant was paid arrears of pay and allowances for the period from 27.11.82 to 29.10.89 after deducting statutory dues and he was paid a net amount of Rs.1,64,774/- on 24.11.94 by Respondent No.4. The grievance of the applicant is that there had been inordinate delay in settling the pay and allowances inasmuch as he was reinstated on 30.10.89 when actually the payment was made to him only in November 1994 and the applicant contended that there had been extraordinary administrative delay and, therefore, by this application the applicant has prayed for interest on the delayed payment of arrears of pay and allowances.

The respondents have stated in the reply that the decision to treat the period as on duty was taken by the competent authority and the orders could be issued only on 19.3.93 and the case of the applicant of payment of arrears of pay and allowances had to be handled by a number of offices and, therefore, it took some time before the actual payment of pay and allowances and there had been no wilful or deliberate

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delay on the part of the railway administration. The learned counsel for the respondents argued very persuasively that in these matters, the totality of the circumstances leading to the delay will have to be taken into account and stressed that Railways had not wilfully or deliberately delayed the payment and it was only due to various administrative procedures of verification at various levels, there had been delay. The claim for interest has to be considered in view of these circumstances.

I have heard the learned counsel for the parties and perused the record. The admitted position is that even after the reinstatement of the applicant pursuant to the decision of the court in 1989, the competent authority issued order relating to the treatment of period of absence from the date of removal to the date of reinstatement in March 1993. This is a statutory requirement in terms of Rule 1344 of the Indian Railway Establishment Code Vol.II. While it is true that there had been delay even in issuing this order, this delay has to be taken into account in the circumstances of nature of the order to be passed regarding the treatment of the period which requires conscious decision by the competent authority in this behalf and it is not as though it has been made automatic in statutory rules. Be that as it may, there

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is no justified ground for delay even after such an order has been issued by the competent authority treating the period as on duty. The department took another ~~four years~~^{over 15} to merely work out the pay fixation from time to time and later payment was made after further a gap of one year. In view of this matter, the delay ~~of~~ ^{beyond} six months from the date of competent authority's order cannot be justified under any circumstances. It would take some time to fix rate of pay and draw the arrears and, therefore, atleast six months' period was to be allowed to the respondents. But in this case, even after allowing six months' period, there had been further delay of one year and three months and this can certainly not be countenanced in a judicial forum. Accordingly, in the circumstances of the case and taking into account the totality of the circumstances of the matter, after the reinstatement of the official and various administrative delays inherent in fixing of salary of the past period, I am of the considered view that the applicant will have to be allowed interest for the delay of 15 months which has occurred in this case.

Accordingly, the respondents are directed to pay interest at the rate of twelve percent on the net amount paid to the applicant of Rs.1,64,774/- It is also directed that the above interest shall be paid within three months from the date of receipt of a copy

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of this order. In the circumstances, there shall be no order as to costs.

K. Muthukumar
(K. Muthukumar)
Member(A)

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