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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O. A. NO. 1415 of 1995
M. A. NO. 2761 of 1995

New Delhi this the 6th day of May, 1996

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

Shri Naval Singh
S/o Shri Godhan Lal,
R/o 18 - Church Lane Jangpura,
Bhogal,
New Delhi. ... Applicant

By Advocate Shri Balwant Singh

Versus

1. Union of India through
General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Divisional Railway Manager,
Northern Railway,
Ferozepur.
3. Sr. Divisional Personnel Officer,
Northern Railway, ... Respondents
Ferozpur.

By Advocate Shri O. P. Kshatriya

ORDER (ORAL)

Hon'ble Mr. K. Muthukumar

Heard the learned counsel for the parties.
The application is directed against the non-settlement of dues of the applicant consequent on his retirement. In this application, the applicant has raised the question of payment of penal interest at the rate of 24% per annum for the delayed payment of his dues. The applicant's case is that he retired from Railway service on 31.1.1995. He came to know that a charge-sheet was issued against

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him for certain alleged misconduct by the respondents' letter dated 16.1.1995. The applicant maintains that the said letter was not issued to him and was not received by him. He was informed that consequent on his not receiving the same, it was got pasted on the wall of his residence as per the letter of the respondents at Annexure A-5. The applicant alleges that the respondents have unjustifiably withheld the retirement dues relating to gratuity, leave encashment and also commutation of pension and, therefore, has prayed in this application that the respondents should be directed to make full and complete payments of settlement dues along with penal interest at the rate of 24% for the delayed payment.

2. The respondents have in their counter-reply submitted that settlement dues, as stated by the applicant, have been withheld as disciplinary proceedings against major penalty was pending against him. The charge-sheet was issued on 16.1.1995 and as this could not be served on him as he refused to receive the same, the respondents had this pasted at his residence. Subsequently, the applicant participated in the enquiry. During the arguments, the learned counsel for the applicant submitted that the enquiry proceedings were concluded on 29.12.1995 and the applicant was exonerated of the charges. Consequently, the respondents have settled the dues of the applicant by way of payment of his leave encashment dues and also the gratuity

by the cheque dated 6.2.1996. The learned counsel for the applicant acknowledges the receipt of this money. He, however, pleads that the request of the applicant for payment of interest could be considered as the applicant ~~has~~ unjustifiably been proceeded against and the disciplinary proceedings had resulted in the exoneration of the applicant. The challenge in this application is in regard to the delay in the payment of dues. This is an admitted position that there was a charge-sheet pending on the date of the retirement of the applicant and, therefore, in accordance with the rules, the respondents withheld the gratuity, leave encashment and other retirement dues of the applicant. Withholding of the retirement dues cannot be said to be illegal in cases where the Government servant faces a disciplinary proceeding against him on the date of his retirement. The disciplinary proceedings themselves are not under challenge here. Just because the disciplinary proceedings had ended with exoneration of the applicant, withholding of the retirement dues on the ground that the disciplinary proceedings are pending, cannot be ~~denied~~ and cannot be contested. The respondents had not wilfully withheld the retirement dues. Therefore, the contention of the learned counsel for the applicant cannot be accepted.

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3. As regards the delay after the conclusion of the disciplinary proceedings, I find that the

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respondents have settled the dues as early as on 6.2.1996 itself, i.e., soon after the conclusion of the disciplinary proceedings by the end of December, 1995, and there has been no extraordinary delay in the matter. However, as regards the commutation of pension, it has been stated in the rejoinder that the respondents have started processing the payment of commutation of pension to the applicant and have ^{promised} ~~issued~~ early payment. This rejoinder was filed sometime in February, 1996 and the learned counsel for the applicant has no information whether this amount has been paid or not, since then. The learned counsel for the respondents fairly admits that in all probability this amount would have also been paid and would have this matter verified but ~~some how~~ submits that this case could be disposed of. In case there is any delay in the settlement of commutation value of pension, the respondents would no doubt consider payment of any interest on the delay in such payment. Taking this

into account, I find this application could be disposed of. The applicant has not made out any case for payment of penal interest on the payment of gratuity and leave encashment dues. If the commuted value of pension is still not settled even on this date, then the applicant will be entitled to interest

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at the rate of 12% from February, 1996, i.e., when his other dues were settled, till the date of payment of commuted value of pension.

With the above directions, the application is disposed of. No costs.



(K. MUTHUKUMAR)
MEMBER (A)

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