

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA 798/1995

New Delhi, this 27th day of November, 1996

Hon'ble Shri S.P. Biswas, Member(A)

Shri Gurdial Singh
s/o Shri Iqbal Singh
147, Arjun Nagar
New Delhi-110 029 ... Applicant

(By Advocate Shri K.P. Dohare)

versus

Union of India, through

1. Chairman
Railway Board
Rail Bhawan, New Delhi
2. General Manager
Northern Railway
Baroda House, New Delhi
3. Chief Personnel Officer(Mechanical)
Northern Railway
Baroda House, New Delhi
4. Divisional Railway Manager
Northern Railway
State Entry Road, New Delhi ... Respondents

(By Advocate Shri R.L. Dhawan)

ORDER(oral)

The applicant, retired Grade A Driver of Northern Railway, is aggrieved for non-payment of gratuity as per Rule 69(i) of Railway Pension Manual and rejection of his representation dated 18.7.93. Consequently, he has prayed for relief in terms of payment of gratuity-the balance equivalent of 5 months of emoluments alongwith interest at market rate of 24% per annum.

2. Heard the learned counsel for both the parties and perused the records carefully. It is the case of the applicant that respondents have violated Rule 69(1) of the Railway Pension Manual and well settled law on payment of gratuity by not paying the applicant gratuity due to him in time. As per applicant, the respondents

paid only four months of emoluments instead of nine months taking into his continuous service with effect from 25.9.1976 to 31.1.1986, less than 10 years and on the basis of Rule 69(1) of Railway Pension Manual the applicant should have been paid nine months of emoluments instead of four months emoluments paid to him after his retirement on 31.1.1986. The applicant would contend further that the respondents did not care to follow the well settled law about pension, gratuity and its payment as per rules even after more than 9 years of the retirement of the applicant by not following the Rule 69(1) of Railway Pension Manual. The learned counsel argued that the applicant herein was entitled to service gratuity and DCRG amounting to Rs.19,290 from 1986 onwards but the respondents, because of malafide intention, have delayed payment wrongly. To buttress his contention regarding the delayed payment, the learned counsel relied on the decision of the Hon'ble Supreme Court in the case of State of Kerala Vs. M. Padmanabhan Nair AIR 1985 SC 356. He has also cited the decision of this Tribunal in OA 1633/91 decided on 21.11.95. As per the decisions cited by the learned counsel, undue delay in such payments is unsustainable in law and needs to be compensated adequately through payment of interest which he has claimed @ 24%. During the course of the argument, the learned counsel also came up with a new plea, namely that the respondents-Railways have not given the benefit as enunciated in the circular of Railway Board dated 15.4.87.

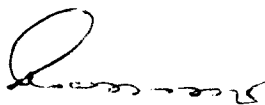
3. In the counter, counsel for the respondents submitted that the claim of the applicant could be considered only in terms of the decision of this Tribunal dated 28.5.93 in OA- 375/86(Annexure A-3), wherein it was directed that "the applicant shall make a representation to the respondents within one month from the date of communication of this order and the respondents shall critically examine the matter and dispose of the representation by a reasoned and speaking order preferably within a period of six months from the date of receipt of the representation". The representation of the applicant was made in August, 1993 and hence the period of 6 months was obviously over by February, 1994. Whereas the payment of the due amount (Rs.19,290) was made only in October, 1996. Counsel for respondents, therefore, submitted that delays in payment of due amount to the applicant from the date of retirement of the applicant in 1986 till February, 1994 cannot be attributed against the respondents-Railways. Counsel for the respondents, however, could not come up with acceptable reasons as to why the respondents had to take almost 2 years and 8 months till October, 1996 when the amount due to the applicant was paid.

4. I find it is not a case of delay of more than 9 years as alleged by the applicant. It was admitted by respondents that the delay of 2 years and half was due to critical examination of the issues raised as directed by this Tribunal. The applicant cannot be penalised for such lapses. Following the ratio laid down by the Hon'ble Supreme Court in the State of Kerala & Ors. Vs.

M. Padmanabhan Nair (Supra), it is a fit case where the culpable delay in settlement and disbursement needs to be compensated with the penalty of payment of interest.

5. I find some force in the submissions of the learned counsel for respondents that the applicant could not claim benefits arising out of Railway Board's circular of April, 1987 having retired in 1986. The counsel for the respondents have, however, mentioned that payment due to the applicant (Rs.19,290/-) has since been made in October, 1996 vide letter dated 18.10.96, a copy of which has been taken on record, though counsel for the applicant appeared to be unaware of the latest development aforesaid. In view of the above circumstances, the respondents shall pay interest @ 18% per annum on the amount of Rs.19,290 to the applicant covering the period from February, 1994 till 18.10.96 when the delayed payment was made. This shall be done within a period of three months from the date of receipt of a copy of this order.

6. The application is disposed of accordingly. There shall be no order as to costs.



(S.P. Biswas)
Member(A)

/gtv/