

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

(13)

O.A. No. 584/96
T.A. No.

199

DATE OF DECISION 21-1-1997Shri Mohan Lal

Petitioner

Shri R.D. Sharma

Advocate for the Petitioner(s)

Versus

Genl. Manager, N.R. and Ore

Respondent

Shri O.P. Khastriya

Advocate for the Responder

CORAM**The Hon'ble Mr.^s** Lakshmi Swaminathan, Member (J)**The Hon'ble Mr.**1. To be referred to the Reporter or not? *yes*2. Whether it needs to be circulated to other Benches of the Tribunal *X*

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

(1A)

O.A No. 584/96

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

New Delhi this the 21th day of January, 1997

Shri Mohan Lal
s/o Sh. Nota Ram,
Resident of 7/29, Chawla Colony,
Railway Line, Rohtak (Haryana)
Place of employment
Ex. H.S.F. Fitter, Grade-I,
Office of Sr. Superintendent,
Northern Railway, Delhi)

(By Advocate Shri R.D. Sharma)

... Applicant

Versus

1. General Manager,
Northern Railway,
Baroda House, New Delhi-110001
2. D.R.M. Northern Railway,
New Delhi.
3. Sr. D.P.O.
Office of the D.R.M.
Northern Railway, New Delhi.

(By Advocate Sh. O.P. Khastriya)

... Respondents

O R D E R

The applicant, who has retired from the services of the respondents as H.S.F. Fitter Grade-I, has filed this application claiming the following reliefs:-

- "(i) ~~the~~ order for the immediate payment of Rs 5994/- on account of leave encashment ;
- (ii) ~~the~~ payment of arrears of pension at the rate of Rs 744/- per month instead of Rs 688/- per month ; from the date of retirement ;
- (iii) ~~the~~ payment of gratuity for two years'.

2. According to the applicant, by the letter dated 5.10.1995, the respondents informed him that the payment in respect of leave encashment for the amount of Rs 5994/- had been paid to him which he has disputed. He has also claimed that his pension is being wrongly paid @ Rs 688/- (excluding relief) instead of Rs 744/- per month right from the date of retirement w.e.f. 1.3.1987. He has submitted

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that he has served for over 30 years and, therefore, he is entitled to the pension @ Rs 744/- per month.

3. The respondents have filed their reply in which they have taken ^{the Rs} preliminary objection that the application is barred by limitation under Section 21 of the Administrative Tribunals Act., 1985. This objection, however, is over ruled ^{that} having regard to the fact/that the respondents themselves have issued the letter regarding payment of leave encashment on 5.10.1995 and the O.A. has been filed on 5.3.1996.

4. The respondents have submitted that the leave encashment amount of Rs 5994/- had been paid to the applicant on 15.10.1987 in the presence of Senior Welfare Inspector and Divisional Personnel Officer. They have also submitted that they are unable to produce the vouchers showing the payment made to the applicant as the records have since been destroyed after five years, as disclosed in their letter dated 2.5.95 (Annexure R-1). However, this fact ~~has~~ again disputed by the applicant in his rejoinder that he has received this amount.

5. The Tribunal in the order dated 18.9.1996 had directed the respondents to produce the counter foil of the cheque on which the cheque was drawn, to the effect that the payment as per the cheque had been made to the applicant along with an affidavit in reply on behalf of the respondents by a competent person. In spite of several opportunities being granted to the respondents, the respondents have failed to comply with these directions or to produce any relevant document from the Bank to show that the cheque has, in fact, been drawn in favour of the applicant and the payment has accordingly been made to him. It is also relevant to note that as late as 5.10.1995, the respondents had given the details pertaining to the payment of this amount, but have thereafter submitted that the records have been destroyed, without producing documents from the bank or the affidavit from the competent officer to this effect.

18

6. In the facts and circumstances of the case, therefore, the prayer of the applicant for payment of Rs 5994/- on account of leave encashment is allowed. The respondents are directed to make this payment to the applicant within one month from the date of receipt of a copy of this order.

7. Regarding the fixation of the pension amount, taking into account the fact that the applicant himself has submitted that he has only worked for little over 30 years, the fixation of pension @ Rs 688/- per month is in accordance with the rules and, therefore, cannot be faulted. The prayer for enhancement of the pension amount @ Rs 744/- per month instead of Rs 688/- per month, is, therefore, rejected.

8. In view of the above, the third prayer in para 8(iii) is without any merit and it is also rejected.

9. O.A. is partly allowed as given in paragraph 6 above. No order as to costs.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)

'SRD'