

(16)

Central Administrative Tribunal
Principal Bench: New Delhi

OA 1087/96

New Delhi this the 25th day of February 1997.

Hon'ble Mr N. Sahu, Member (A)

Chabi Lal Sharma
S/o Shri Fali Ram Sharma
R/o Village Akbarpur
Kutukpur, Teh. Jasrana
Dist. Ferozabad.

....Applicant.

(By advocate: Shri S.K.Gupta)

Versus

Union of India through

1. General Manager
Northern Railway
Baroda House
New Delhi.
2. Divisional Railway Manager
Delhi Division
State Entry Road
New Delhi.

...Respondents.

(By advocate: Not present)

O R D E R (Oral)

Hon'ble Mr N. Sahu, Member (A)

Heard learned counsel for the applicant. None present for the respondents.

On 11.2.97, two weeks' further time was given requiring the respondents to present the relevant records. It was also made clear that in case of non-appearance, the matter would be disposed of on the basis of available records. The earlier history of the proceedings is that for the first time in 1996, when the respondents entered appearance, there was a request from the applicant's side for grant of provisional pension. A period of 2 weeks was allowed for filing reply to the interim relief. Thereafter on 23.8.96, 4 weeks' time was allowed to file reply and 2 weeks for rejoinder.

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There was a direction for grant of provisional pension. Learned counsel for the applicant Shri S.K.Gupta states that provisional pension has not been paid so far. On 14.10.96, respondents' counsel sought 2 weeks' time to file counter. This was followed by two more requests for time for filing counter on 4.11.96 and 16.12.96. Again the matter was considered on 17.1.97 and 11.2.97. But the counter has not been filed. The OA is disposed of on merits on the basis of available materials.

2. The applicant was appointed as Senior Bond Fitter with D.R.M. Delhi Division. Annexure A-1 to the petition clearly states that the applicant's date of birth is 13.5.1937; appointed as Bond Fitter in the grade of Rs.1200-1800 and worked in the Division from 31.12.71 to 31.5.95 on which date he superannuated. The applicant prays for a direction to the respondents to release all pensionary benefits like gratuity, leave encashment and monthly pension with interest at the rate of 18% per annum. The averments made by the learned counsel for the applicant at the Bar as well as the materials available on record, particularly by an affidavit filed dated 3.7.96, show that there were no dues payable by him. There was also vigilance clearance. He vacated the government quarter 351-C Railway Sen Colony on 14.3.95 and nothing is due against the quarter. It is a clear case where there is an inexplicable delay on the part of the respondents in releasing all the pensionary benefits to the applicant. Several opportunities were given to explain the circumstances under which the applicant was denied his retiral benefits which under the existing instructions should have been handed over to him on the date of his retirement. It has been made clear during the course of the hearing by Shri S.K.Gupta that no disciplinary proceedings are pending against the applicant and no charge-sheet has otherwise been issued.

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3. In the conpectus of the above facts and circumstances, the respondents are hereby directed to release all pensionary benefits like gratuity, leave encashment and pension admissible to the applicnt in accordance with law and rules and instructions governing their payment within a period of 10 weeks from the date of receipt of a copy of this order. On the basis of the law laid down by the Supreme Court in 1994 (6) SC p. 589 in Kapur's case, the respondents shall pay interest at the rate of 18% per annum to be calculated after allowing period of 2 months from the date of retirement i.e. the interest shall be calculated from 1.8.95 till the date of payment.

4. In this case, the Supreme Court laid down that prompt payment of retiral dues is the government's duty failing which it is liable to pay penal interest to the petitioner. The last para of the Supreme Court judgement is extracted hereunder:

"5. We are also of the view that the State Government is rightly saddled with a liability for the culpable neglect in the discharge of his duty by the District Treasury Officer who delayed the issuance of the L.P.C. but since the concerned officer had not been impleaded as a party defendant to the suit the Court is unable to hold him liable for the decretal amount. It will, however, be for the State Government to consider whether the erring official should or should not be directed to compensate the Government the loss sustained by it by his culpable lapses. Such action if taken would help generate in the officials of the State Government a sense of duty towards the Government under whom they serve as also a sense of accountability to members of the public."

5. In accordance with the spirit of the Apex Court's observations, this appears to me a fit case where respondent No.1 should consider conducting an enquiry to fix responsibility for the delay in payment of these retiral benefits and decide as to whether the erring official should or should not be directed to compensate the government the loss sustained by it for his lapses.

The application is disposed of. No costs.


(N. Sahu)
Member (A)