

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 321/97

New Delhi this the 28 Day of August 1998

Hon'ble Mr. R.K. Ahooja, Member (A)

Shri B.M. Singh,
S/o Shri Yog Raj,
Ex. Assistant Engineer,
Northern Railway,
Dhilwan Depot,
at Amritsar.

Resident of

9A Chander Puri,
Taylor Road,
Amritsar (Punjab)

Applicant

(By Advocate: Shri B.S. Mainee)

-Versus-

Union of India : Through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Chief Engineer,
Northern Railway
Baroda House,
New Delhi.
3. The Dy. Chief Engineer (Bridges),
Northern Railway,
Jullundhur Cantt (Punjab) Respondents

(By Advocate: Shri D.P. Kshatriya)

ORDER

Hon'ble Shri R.K. Ahooja, Member (A)

The brief facts of the case are that the applicant retired from service w.e.f. 31.5.1995 in the capacity of Assistant Engineer, a Group 'B' post. Prior to his retirement, a chargesheet dated 29.7.1994 for major penalty was served on the applicant. A disciplinary enquiry against the applicant had been completed on 18.9.1995 but no final decision was taken. The applicant came before the Tribunal in O.A. No.

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2226/96 praying for quashing the disciplinary proceedings and for direction to the respondents to release his retirement benefits which had been withheld. The aforesaid O.A. was disposed of vide judgement dated 15.10.1996 in which the respondents were directed to pass the final order in the disciplinary proceedings within three months. Ultimately, the final order was passed on 5.12.1996 whereby the charges levelled against the applicant were dropped and necessary instructions were issued to Respondent No. 3 to pay the settlement dues of the applicant. The grievance of the applicant is that despite the fact that he retired on 31.5.1995 and even though the final order of acquitting him from all charges was passed on 5.12.1996, some of his retiral benefits amounting to Rs. 3 lakhs have still not been released.

2. The respondents in their reply have stated that the retiral benefits due to the applicant had been paid on 17.1.1997 prior to the date of filing the O.A. on 4.2.1997. Thereafter, the applicant amended his O.A. and submitted that he had received a Cheque for Rs. 1,95,442/- on 29.1.1997 but alleged that wrongly respondents had recovered an amount of Rs. 63,332/- against alleged outstanding dues on account of damaged rent and electricity bill. They submitted that this action was illegal and arbitrary. In the amended O.A. the applicant sought a direction to the respondents to pay him interest @ 18% per annum on the amount of Rs. 1,95,442/- and further to pay the balance amount of Rs. 63,332/- also with 18% interest per annum.

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3. In their reply to the amended O.A., the respondents firstly submitted that the applicant was not entitled to any relief as he had sought to conceal very material fact that he had been paid his retiral benefits before 4.2.1997. Further they submit that action for recovery of Rs. 63,332/- arose in pursuance to Punjab and Haryana High Court order dated 7.10.1997, during the pendency of the O.A. for which a separate O.A. has to be filed. On merit they submit that the retiral benefits were withheld because of pending disciplinary proceedings. Further, the applicant was absent from duty w.e.f. 30.9.1990 to 3.1.1992 for which also a decision was required to be taken. They further state that the applicant had been refunded the amount of Rs. 63,332/- as per order of Punjab and Haryana High Court vide cheque dated 17.32. 1998. 3

4. I have heard Shri B.S. Mainee for the applicant and Shri K.R. Sachdeva for the respondents. Shri B.S. Mainee contended that even though the retiral benefits have now been paid, the applicant has not been paid the interest due to him on delayed payments. In the normal course the applicant would have a good case for claiming interest on payment of retiral benefits except for the amount of Rs. 63,332/- which was given to him on the direction of the order of Punjab and Haryana High Court. Since the latter amount was released on the order of the High Court of Punjab and Haryana, he should have sought the payment of interest also at the same time. However, so far as the other retiral benefits are concerned, I find that the applicant has not given the full facts and has sought to conceal material of facts for reasons which are difficult to fathom. Firstly, it.

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comes out that when he originally presented the O.A, he did not state that the respondents had already released the retiral benefits to him even if some amount was still disputed. On his own admission the cheque was received on 17.1.1997 but the same was returned as it was defective. However, the cheque was encashed on 31.1.1997. Yet no mention was made of this fact in his O.A. presented on 4.2.1997. Again when he amended his O.A. and sought a direction for payment of the balance amount of Rs. 63,332/- which was deducted by the respondents, he did not disclose that he had moved a similar petition before the High Court of Punjab and Haryana. The amended O.A. was filed on 11.3.1998, while the decision of the Punjab and Haryana High Court was given on 7.10.1997. Though he had mentioned of it in para 4.9(c) of his amended O.A., he did not disclose that the pay order for payment thereof had already issued on 5.2.1998.

5. In these circumstances the applicant having concealed material facts, he is not entitled to any relief. ^{Accordingly} In these circumstances, the O.A. is dismissed. There will be no order as to costs.


(R.K. Ahooja)
Member(A)

Mittal