

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.**

O.A./TAX No. 888/1994 Decided on: 28/8/97

Shri Prem Behari SharmaApplicant(s)

(By Shri B. S. Maine Advocate)

Versus

U.O.I. & Another Respondent(s)

(By Shri O.P. Kshatriya Advocate)

CORAM:

THE HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

THE HON'BLE SHRI

1. Whether to be referred to the Reporter Yes or not?
2. Whether to be circulated to the other Benches of the Tribunal?

(K. MUTHUKUMAR)
MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 888 of 1994

New Delhi this the 28th day of August, 1997

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

(31)

Shri Prem Behari Sharma
Retired P.A. to the Divisional Railway
Manager,
Northern Railway,
D.R.M. Office,
State Entry Road,
New Delhi.

...Applicant

By Advocate Shri B.S. Mainee

versus

Union of India: Through

(1) The General Manager,
Northern Railway,
Baroda House,
New Delhi.

(2) The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi. ...Respondents

By Advocate Shri O.P. Kshatriya

ORDER

Hon'ble Mr. K. Muthukumar, Member (A)

Applicant contests the denial of interest on the delayed payment of Death-cum-Retirement Gratuity (DCRG) and commuted value of pension on his retirement from service on 28.2.1989. Respondents contend that as the applicant was facing disciplinary proceedings with charge-sheet for major penalty at the time of his retirement, DCRG dues were withheld, which were released later on 20.5.90 on the conclusion of the proceedings. The respondents also point out that applicant was issued another charge-sheet after the

retirement which was still pending and, therefore, the question of payment of interest on such retirement dues did not arise. The said proceedings initiated after retirement resulted in imposition of cut by 25% in his pension under Rule 9 of the Railway Servants (Discipline & Appeal) Rules, 1968.

(32)

2. Applicant's case is that he was completely exonerated from the charges levelled against him on the first charge-sheet and in view of Railway Board's instructions, he was entitled to interest, once he was completely exonerated of the charges pending on the date of his retirement.

3. Learned counsel for the applicant relied on the provisions of the Railway Board Circular dated 15.4.1991 and argued that as on the date of retirement only the first charge-sheet was pending, which resulted in complete exoneration of the applicant on 25.10.1989 but the respondents delayed his DCRG dues till 20.5.1990, ^{i.e.} after a delay of 15 months, and was, therefore, entitled to interest on delayed payment. He relies on decisions in R.P. Kapoor Vs. U.O.I. and Others, AIJ 1996(Vol.2) page 3, Anadut Vasudev Waiker Vs. U.O.I., AIJ 1996(Vol.2) page 67 and Mohanty Vs. U.O.I., AIJ 1996(Vol.2) page 20 and argued that there is absolutely no provision for withholding interest which is ~~done~~ ^{done} on the delayed payment. Learned counsel for the respondents on the other hand argued that the applicant was in fact facing the second charge-sheet under Rule 9, which resulted in the imposition of penalty of 25% cut in his pension, and in ~~face~~ ^{face} of this pending proceedings, the applicant would not be

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entitled to payment of interest on payment of
gratuity/commutation benefits, which were released to him on
20.5.1990.

(33)

4. I have heard the learned counsel for the parties
and looked into the record.

5. It is an admitted position that the first disciplinary proceedings were based on the charge that he failed to observe the formalities regarding the drawal of a scooter advance of Rs.3,500/- . These proceedings were pending on the date of retirement of the applicant on 28.2.1989. Admittedly, the applicant was exonerated of this charge by order dated 25.10.1989. The DCRG/commuted value of pension were released on 25.10.1990. Thus there has been a delay in the settlement of these dues, after the exoneration. It is a different matter that subsequently on 18.10.1989 (after his retirement), he was faced with a second charge-sheet for certain other misconduct, viz. that he misused his official position for securing out of turn or undue promotion to certain staff members. This charge was proved ^{and} by the provision of Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 and Railway Servants ^h (Pension) Rules, he was imposed a penalty of 25% cut in his pension by the order dated 24.12.1996. Be that as it may, the fact remains that at the time of retirement only the first charge was pending which resulted in complete exoneration and, therefore, in terms of Railway Board Circular dated 15.4.1991, payment of gratuity will have to be deemed to have fallen due on the date of retirement. The aforesaid circular reads as follows:-

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"(a) In such cases if the Railway servant is exonerated of all charges and where the gratuity is paid on the conclusion of such proceedings, the payment of gratuity will be deemed to have fallen due on the date following the date of retirement vide Board's letter of even number dated 25.5.1983. If the payment of gratuity has been authorised after three months from the date of his retirement interest may be allowed beyond the period of three months from the date of retirement".

(34)

6. It is an admitted position that DCRG/commutation due were released to him on 20.5.1990 after a delay of 15 months, and, therefore, in terms of the aforesaid instructions, the applicant will be clearly entitled to interest for the period of 15 months. The fact that he was subsequently charged and was imposed a penalty under Railway ~~servants~~ (Pension) Rules, 1993, does not take away his right to be paid interest for the delay in the payment of DCRG/commutation. No provision of law which bars the payment of interest has been cited by the respondents. His claim for interest at the rate of 18% is, however, not justified in the facts and circumstances of the case.

7. In the light of the foregoing, the impugned order cannot be sustained and is accordingly quashed. The respondents are directed to pay interest at the rate of 12% on the amount of DCRG/commuted value of pension released to him, for a period of 15 months and the interest may be released to him within 3 months from the date of receipt of a copy of this order. No costs.


(K. MUTHUKUMAR)
MEMBER (A)

Rakesh