

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. Nos. OA 1304/89, OA 1305/89,
OA 1306/89, OA 1307/89
and OA 1308/89

Date of decision: 02.03.1990.

(1) OA 1304/89

Shri P.M. Venkatesan

...Applicant

Vs.

Union of India through
the Secretary, Railway
Board,

...Respondents

(2) OA 1305/89

Shri P.S. Dutt

...Applicant

Vs.

U.O.I. through the
Secretary, Railway Board

...Respondents

(3) OA 1306/89

Shri S.K. Bhanot

...Applicant

Vs.

Union of India through
the Secretary, Railway
Board

...Respondents

(4) OA 1307/89

Shri N. Rajamani

...Applicant

Vs.

U.O.I. through the
Secretary, Railway Board

...Respondents

(5) OA 1308/89

Shri J. Sharan

...Applicant

Vs.

U.O.I. through the
Secretary, Railway Board

...Respondents

For the Applicants

...Shri R.K. Kamal,
Counsel

For the Respondents

...Shri P.H. Ramchandani,
Sr. Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. D.K. CHAKRAVORTY, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *No*

(The Judgment of the Bench delivered by Hon'ble Shri P. K. Kartha, Vice Chairman(J)).

The sole question arising for consideration in these

applications is whether the applicants are entitled to interest on delayed payments of their retirement benefits consequent on their absorption in the Indian Railway Construction Company Limited. As the question of law involved is identical, it is proposed to deal with the same in a common judgment.

2. The facts of the case in brief are that the applicants had filed separate applications in the Tribunal in 1986 challenging the power of the Government to enforce

retrospectively the order of their absorption in the Indian Railway Construction Company Limited on permanent basis.

Allowing the applications and setting aside the order of

the President, the Tribunal vide its judgments dated

9.9.1987 in the case of applicant in OA No.1308/89 and

18.9.1987 in the case of other applicants set aside the

impugned orders issued by the President to the extent that

they operated retrospectively. It was, further, directed

that the applicants shall be deemed to have been absorbed

permanently with the Indian Railway Construction Company

Limited with effect from the date of the Presidential

Order. The Tribunal, further, directed that the applicants

shall be entitled to all the consequential benefits

flowing from their absorption with effect from the date of

the Presidential Order by way of salary and pension etc.

3. The respondents delayed the implementation of the

above aforesaid judgments of the Tribunal for over 18 months. Contempt

Petitions were filed against the respondents in which

Shri S.M. Vaish, Secretary, Railway Board, filed reply

and assistance on behalf of the respondents. He tendered unqualified apology to the Tribunal for not implemented the Tribunal's judgment and stated that the delay was due to the time not taken for consulting other departments, including the officials of the Ministry of Law and the Law Officers.

It was finally decided to file a Special Leave Petition in the Supreme Court on the point of the principles involved in the case without impeding the implementation of the judgment. The court after hearing the parties issued its order in April, 1989 regarding permanent absorption of the applicants in the Indian Railway Construction Company Limited. The final settlement dues were also paid to them, but without interest on the basis of delayed payments. The applicants have prayed in these applications that the respondents be directed to pay interest to them at the market rate of 18% per annum on the delayed payments for over 18 months.

The stand of the respondents is that the applicants had drawn all the settlement dues on the basis of their respective dates of absorption before the judgment of the Tribunal became available. When the Tribunal quashed the earlier order of absorption, they did not refund the amount drawn by them to the Government nor did they pay any interest to the Government. The respondents have also raised the preliminary objections that the applicants have not exhausted the departmental remedies available to them, which bedid that the judgment does not contain any direction to pay

any interest and that the Contempt Petitions which had been filed in the Tribunal by the applicants before us had been dismissed without the Tribunal making any order as to the payment of interest on the delayed payments.

7. We have gone through the records of the case

carefully and have heard the learned counsel of both parties. The applicants have contended that during the 18 months of delayed payments, the amounts due to them were lying with the respondents who had enjoyed the incremental benefits on the same by way of interest etc.

Had the amounts due to them been paid in time, the applicants could have invested the same yielding interest.

The employee should not be deprived of interest in such circumstances.

8. We see ~~✓~~ force in the aforesaid contention raised by the applicants. It is true that the judgment does not contain a direction to the respondents that they should pay interest to the applicants on the amounts due to them.

Where a judgment is silent as to the time-limit within which it has to be complied with, the directions contained therein should be implemented within a reasonable period. To our mind, a period of three months would be reasonable. Any time taken beyond three months has to be construed to be unreasonable.

In State of Kerala and Others Vs. M. Padmanathan Nair, AIR 1985 SC 356, the Supreme Court observed that pension and gratuity are no longer any bounty to be distributed by the Govt. to its employees on their

9

retirement but have become, under the decisions of the Supreme Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment.

10. The learned counsel of the respondents argued that interest cannot be claimed as a matter of right and that it has to be regulated by law or contract. We are not impressed by this contention. When there is unreasonable delay in disbursing the retirement benefits, it would be in the interest of justice to compensate the aggrieved person in any reasonable manner for the loss suffered by him due to the non payment of his dues (Vide V.P. Gautam vs. Union of India, 1976 SLJ 675; D.D. Sadbtra Vs. State and Another, 1981(3) SIR 580; and T.S. Ramchandra Rao Vs. Union of India & Others, ATR 1986(1) CAT 141).

11. In the light of the foregoing, the applications are disposed of ~~in the admission stage itself~~ with the following directions:-

(i) The respondents are directed to pay to the applicants interest at the rate of 10% per annum for the period from the date of the judgment of this Tribunal to the date on which the respondents paid to them pro-rata pension and other retirement benefits due to them. In calculating the amount of interest, a period of 90 days may, however, be excluded from the date of the judgment which we consider to be a reasonable time that may be taken for implementing the same.



(ii) In calculating the amounts due to the applicants, the amounts already drawn on the respective date of absorption before the judgment of the Tribunal was available, should be excluded. The interest becomes payable only on the balance amount paid in the implementation of the judgment.

(iii) The respondents shall comply with the above directions within a period of 3 months from the date of communication of this order.

(iv) The parties will bear their own costs.

(v) Let a copy of this order be placed in all the five case files.

(D.K. CHAKRAVORTY)
MEMBER (A)

2/2/90

(P.K. KARTHA)
VICE CHAIRMAN (J)