

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? *Ans*
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

and in your 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
two cases same in a common judgment.

Question 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 CA 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 judgments of the Tribunal for over 18 months. Contempt Petitions were filed against the respondents in which

on behalf of the respondents. He tendered unqualified having O✓

apology to the Tribunal for not implemented the Tribunal's

judgment and stated that the delay was due to the time

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

before the Supreme Court on the point of the principles

involved in the case without impeding the implementation

of the judgment. The respondents filed a

counter affidavit in April, 1989 regarding

the permanent absorption of the applicants in the Indian

O✓ in accordance with the judgment of this Tribunal
to defendant, the Railway Construction Company Limited. The final settlement

dues were also paid to them, but without interest on the

base 98/8021, delayed payments. to case erit of 801/89

interest rate of 6.00%. The applicants have prayed in these applications

that the respondents be directed to pay interest to them

based on the market rate of 18% per annum on the delayed payments

for a period of over 18 months.

The stand of the respondents is that the applicants

had drawn all the settlement dues on the basis of their

employment and the 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,

that the judgment does not contain any direction to pay

8

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

the 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

the best of 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

In the above case, in 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

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) SLR 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 administration 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 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)