

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH
NEW DELHI.

O. A. No. 1389 of 1989

New Delhi, this the 27th ~~March~~^{April}, 1994.

Hon'ble Mr B.N.Dhondiyal, Member(A)

V.S.

Union of India: through:

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Chief Bridge Engineer,
Southern Railway,
Baroda House,
New Delhi. Respondents.
(through Mr B.K. Aggarwal, Advocate)

O r d e r (oral)

The applicant Shri Puran Chand Kalia, retired as Bridge Inspector from the Northern Railway on 28.2.1985. On the verge of his retirement, he was served with a memorandum/charge-sheet for a major penalty on 10.1.1985. The inquiry continued for sometime and ultimately by letter dated 9.5.1988, he was exonerated. The payment of gratuity was delayed due to this pending inquiry and even when this was paid, deductions were made for alleged shortages in the stores. He has also not been paid the expenses for his journey for being present during the inquiry from his Village to Jullundhar Cantt. The applicant, has, therefore, prayed for the following reliefs:

" that this Hon'ble Tribunal may be pleased.

to direct the respondents to pay interest

@ 18% per annum on the amount of gratuity for

the period, from the date it was due after retirement till the date of payment;

8.2 That this Hon'ble Tribunal may be further pleased to direct the respondents to refund an amount of Rs.3030/- which has been illegally deducted from the gratuity of the applicant.

8.3. That this Hon'ble Tribunal may be further pleased to direct the respondents to pay an amount of Rs.658/- which has been deducted from the TA bill of the applicant.

8.4. That this Hon'ble Tribunal may be further pleased to direct the respondents to give benefit of promotion to the upgraded post of Bridge Inspector, Grade I, scale of Rs.700-900 from the date from which his junior was promoted.

2. Heard the learned counsel for the parties. As regards interest on delayed payment of gratuity, the learned counsel for the applicant has drawn our attention to Railway Board Circular dated 15.4.1991, the relevant portion of which is extracted below:

"(a) In such cases if the Railway Servant is exonerated to 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 retirement, interest may be allowed beyond the period of three months from the date of retirement."

In view of clear-cut instructions, there is no doubt that the applicant is entitled to succeed so far as this relief is concerned.

3. As regards deduction of an amount of Rs.3030/-

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from the gratuity on the ground of alleged shortage of stores, it appears that no formal show-cause notice was ever issued to the applicant even though the respondents have mentioned in the counter that he was given an opportunity, as he met the officer concerned. It has been held by this Tribunal in O.A.No.14/90 decided on 23.8.1990 - ATJ 1991(1) 89 (Venkateshwar Rao vs. Union of India and others) that recovery after retirement cannot be made till the dues are established and for recovery of loss caused to Govt. servant can be made only after giving a notice following an inquiry. These views have been reiterated by another Bench of this Tribunal in OA No.677/90 dated 15.7.1991 (Madhusudhan Howli vs. Union of India and others -1992(1) CAT 109, wherein it was held that no part of gratuity ^{is liable for} can be ~~enforced~~ without following the principles of natural justice. It is not enough to say that the applicant had met the officer concerned. We, therefore, hold that before enforcing any cuts, ^{her Inv} the dues should have ^{been} established and the applicant should have been given an opportunity to defend him.

4. As regards deduction of Rs.658/- from the T.A. Bill, the respondents have explained that this claim was disallowed as the applicant was not due for any conveyance charges from his village Chihert to Jullundhar Cantt under the rules as both stations were linked with the Railways. The learned counsel for the applicant fairly stated that he shall not press for this claim.

5. As regards promotion to the up-graded post of Bridge Inspector Gd.-I, from the date his junior was promoted, it is clear that orders for such promotion were passed long after the applicant

retired, and are given effect to only prospectively. This relief is, therefore, not admissible.

6. In the facts and circumstances, the application is partly allowed and is disposed of with the following directions:

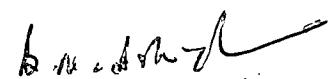
(i) An interest of 12% per annum shall be paid by the respondents on account of delayed payment of gratuity from 28.5.1985 to the date of actual payment.

(ii) The respondents shall refund the amount of Rs. 3030/- deducted from the gratuity.

The above orders shall be given effect to, within a period of two months from the date of communication of this order.

There shall be no order as to costs.

/sds/


(B.N.Dhoundiyal)
Member(A)