

10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

* * *

O.A. NO. 690/1989

DATE OF DECISION : 14.2.92

SHRI SUNDER DASS

...APPLICANT

VS.

UNION OF INDIA

...RESPONDENT

CORAM

SHRI J.P. SHARMA, HON'BLE MEMBER (J)

FOR THE APPLICANT

...SHRI R.L. SETHI

FOR THE RESPONDENTS

...SHRI N.K. AGGARWAL

1. Whether Reporters of local papers may be allowed to see the Judgement? y
2. To be referred to the Reporter or not? y

JUDGEMENT

(DELIVERED BY SHRI J.P. SHARMA, HON'BLE MEMBER (J))

The applicant, retired Driver, Northern Railway, filed this application under Section 19 of the Administrative Tribunals Act, 1985 for non payment of retirement benefits in full and also claimed interest on delayed payment and assailed the order dt. 24.9.1987 issued by Divisional Accounts Officer, Northern Railway, New Delhi that amount of Rs.768.08 said to have been transferred by Senior DAO/FZR is not included in this amount as the TC No.41/FZR dt. 13.11.1963 has not been

received in the DAO, Northern Railway, New Delhi. He was asked to contact Senior DAO/FZR to issue either a fresh TC or to arrange payment. The applicant claimed the following reliefs :-

- (a) The respondents be directed to pay penal compound interest @18% p.a. on the delayed payment of retirement benefits of pension, gratuity, commutation, GPF and LTC payable on the 1st day of February, 1987, but actually paid long after.
- (b) Short payment of Rs.768.08 on account of Provident Fund be paid with penal compound interest @ 18% p.a. from the date of accrual till payment.
- (c) An amount of Rs.188.80 illegally recovered from gratuity on account of T&P items, which were duly deposited long back against valid receipt issued, be paid back with compound interest.
- (d) A short payment made on leave encashment on approved qualified service be made good with compound interest @ 18% p.a. from 31.1.1986 to 30.1.1987.

2. The applicant was declared medically unfit as Driver Grade 'C', Diesel Shed, Shakur Basti, Northern Railway, Delhi w.e.f. 31.1.1987. The gratuity and LTC was sanctioned in October, 1987 and GPF was allowed on September, 1987 and in that too, there was a short payment of Rs.768.08. The payment of commutation was made in October, 1988 through bank. The revision of pension was allowed on 16.3.1989. According to the applicant, as per extant orders and rules, the respondents are under obligation to pay compound interest @ 18% p.a. on the delayed payment of pension etc. In

↓

addition, an unauthorised recovery of Rs.188.80 on account of T&P items has been made, which the applicant has deposited against valid receipt dt. 18.7.1987.

3. The respondents contested the application and stated in the reply that the entire claim of the applicant has been fully satisfied and in para 4.3, the payment has been effected as follows :-

- i) PF (Provident Fund) arranged vide AB No.21 PIG dated 13.8.1987.
- ii) Pension released vide PPO No.028715575 dated 12.10.87;
- iii) DCRG released vide AB No.P112A dated 9.10.87;
- iv) LIC arranged vide AB No.P 222A dated 21.9.1987;
- v) Leave Encashment Applicant has no leave due at his credit for encashment of leave;
- vi) Commutation of Pension arranged vide No.028715575 dated -/7/88.

4. It is further stated that the applicant himself is responsible for such delay due to late submission of requisite application for pensionary benefits along with papers. The pension papers were received by the applicant on 11.2.1987 and the applicant completed the same on 3.8.1987. It is further stated that the applicant is not entitled to any interest.

↓

13

Regarding the payment of Rs.188.80 on account of T&P items, the respondents admitted that action is being taken to refund that amount. It is further stated that no lieu is due to applicant for encashment. The respondents have not admitted para 4.7. of the application in which the applicant has alleged short payment of Rs.768.08. However, no particulars have been given by the respondents.

5. On the date of hearing, the Counsel for the applicant did not appear and only Shri N.K. Aggarwal, counsel for the respondents appeared. Earlier on 3.2.1992, Shri A.Kalia, proxy counsel for Shri R.L. Sethi appeared and stated that the matter be decided on the basis of the pleadings on record. From the record, it is evident that the respondents have admitted that they are taking steps for the payment of Rs.188.80 on account of T&P items through Senior Divisional Accounts Officer, New Delhi. The record also shows that by the Memo dt. 13.7.1987 (Annexure A6) on the subject of recovery of excess paid amounts and recovery of T&P items from the applicant, it is mentioned that the applicant has deposited T&P items in the office of the Divisional Personnel Officer, Northern Railway, which were to be debited from his settlement dues. Thus an amount of Rs.188.80 is to be refunded to the applicant.

6. The applicant has specifically stated that Rs.768.08 has been paid short of GPF amount. By the

↓

(Annexure A1)
letter dt. 24.9.1987/ Divisional Accounts Officer,
Northern Railway has advised the applicant that the
aforesaid amount of Rs.768.08 can be paid only when fresh
TA from DAO/FZR is sent or Senior DAO, Ferozepur be
contacted to issue a fresh TC or to arrange the payment.
During the course of the arguments, the learned counsel
for the respondents could not show that this amount
has since been paid to the applicant. Admittedly this
amount is not covered in the GPF amount paid to the
applicant as is evident from Annexure A1 where the
amount paid is only Rs.6,104 which does not include the
amount of the TC No.41 of Ferozepur for Rs.768.08.
This amount, therefore, has to be paid to the applicant
by the respondents.

7. It is stated by the respondents that no leave
encashment is due to the applicant, though in the rejoinder,
the applicant has stated certain facts that the leave
became due at his credit on revised qualified service
period from 31.1.1986 to 30.1.1987 when he was on medical
leave. However, there is nothing to substantiate this
fact.

8. The applicant also could not justify his claim for
interest as he himself has defaulted in submitting his
pension forms in the last week of August, 1987, though
he has been provided with the forms in February, 1987.

↓


Thus the applicant cannot for his own default claim payment because the dues have been paid to the applicant almost in one year. He was declared medically unfit on 31.1.1987 and within the year 1987, most of the terminal benefits were paid.

9. In view of the above discussion, the application is disposed of in the following manner :-

(a) The respondents are directed to pay an amount of Rs.188.80 on account of excess deduction of T&P items along with 10% interest upto the date of payment from August, 1987.

(b) The respondents are further directed to pay the balance of the GPF amount, i.e., Rs.768.08 @ 12% compound interest from the date of retirement of the applicant, i.e., January, 1987 till the date of payment. The claim of the applicant with respect to ^{other reliefs including} ~~interest~~ and leave encashment is disallowed.

The respondents shall comply with the above directions within a period of three months from the date of receipt of this order. In the circumstances, the parties to bear their own costs.


14.2.92
(J.P. SHARMA)
MEMBER (J)