

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 1101/90

DECIDED ON : 18.3.93

M. P. Singhal

... Applicant

-Versus-

Union of India through the
Secretary, Railway Board

... Respondents

CORAM :

THE HON'BLE MR. J. P. SHARMA, MEMBER (J)

Shri R. K. Kamal, Counsel for Applicant

None present for the Respondents

J U D G M E N T

The applicant earlier filed O.A. No. 109/86 in the Principal Bench which was decided on 18.9.1987. The applicant in that O.A. claimed his permanent absorption in Rail India Technical & Economic Services Ltd. (for short RITES) with effect from the date of the order dated 11.11.1985 while in fact his permanent absorption was taken into effect from retrospective date w.e.f. 7.7.1984, i.e., from the date his initial term of deputation had expired. That O.A. was allowed with the direction that the applicant shall be deemed to have been absorbed permanently w.e.f. the date of the Presidential order dated 11.11.1985 and it was further directed that the applicant shall be entitled to all consequential benefits flowing from the absorption by way of salary and pension etc. There was some delay in the implementation of the judgment as a result of which the applicant filed C.C.P. No. 28/89 and thereafter the payments were made to the applicant of commutation of pension amounting to Rs.34,323/- on 10.5.1989 and additional gratuity Rs.14,000/- — Rs.13,587/- were paid on

24.4.1989 and Rs.413/- were paid on 5.5.1989. Since there was a delay in payment of the aforesaid amount, in the present O.A., the applicant has prayed for the interest at the market rate of 10 per cent per annum.

2. The respondents have filed their reply and opposed grant of interest to the applicant on the ground that the judgment has been fully implemented and that no interest was due or payable; hence it was not paid. It is further averred in the reply that there was certain legal points involved in the judgment which took time for the Government to file SLP before the Hon'ble Supreme Court and thereafter the judgment was implemented and that the delay was not on account of any administrative lapse. It is further stated that the applicant had drawn all the settlement dues on the basis of his date of absorption as 7.7.1984 before the judgment of the Central Administrative Tribunal allowing him the date of absorption as 11.11.1985 when the Tribunal quashed the earlier order of absorption as indicated by the applicant. The applicant has not refunded the amount drawn by him to the Government nor has any interest been paid to him by the Government.

3. Shri B. M. Mani has been authorised on behalf of the Railways but he did not appear at the time of the hearing of the case. So, the learned counsel for the applicant Shri R. K. Kamal has been heard at length.

4. The learned counsel for the applicant referred to the judgment delivered by the Principal Bench in a batch of O.A.s, OA-1304/89, OA-1305/89, OA-1306/89, OA-1307/89 and OA-1308/89 which were decided on 2.3.1990. The applicant of OA-1307/89, Shri N. Rajmani and the applicant of OA-1306/89, Shri S. K. Bhanot, also filed O.A.110/86 and OA-111/86 which were also

disposed of by a common judgment along with the O.A. filed by the applicant (OA-109/86) on 18.9.1987. Both Shri N. Rajmani and Shri S. K. Bhanot in the subsequent O.A.s filed referred to above and decided on 2.3.1990 by the Division Bench claimed interest on delayed payment of their retirement benefits consequent upon their absorption in the Indian Railway Construction Company Limited. The Division Bench disposed of that O.A. as follows :-

"(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 amount already drawn on the respective dates 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."

5. I have gone through the judgment by which the similarly situated applicants N. Rajmani and S. K. Bhanot have been allowed interest on the delayed payment of retirement benefits and I find no reason to disagree with the conclusion arrived at in that case. Though the present applicant has filed this application on 31.5.1990 while Shri Rajmani and Shri Bhanot along with others filed separate O.A.s some times in 1989. However, the learned counsel for the applicant pointed out that Shri M. Srinivasan also filed O.A.1106/90 which has also been decided by court No. 2 almost at the same time when the present application was filed in the Principal Bench and in

that case also the interest was allowed on account of delay in payment of the retirement benefits.

6. Normally, award of interest is discretion of the court and also it is due to the aggrieved person only when there are administrative lapses, but taking into account the settled judicial principle that justice should not only be done but it should seem to be done, and as similarly situated persons have been given the benefit by the Division Bench, on that analogy the applicant has to be allowed irrespective of the fact that the judgment given by the Division Bench does not lay down any definite ratio regarding the award of interest to the applicants in those cases. It is also in view of the fact that none has appeared on behalf of the respondents to distinguish those cases at the time of hearing. The claim of interest, therefore, on the basis of the above referred judgment in O.A.1304/89 is justified but since the applicant has come quite late and has not approached the department by way of representation, he is entitled to only interest at the rate of 6% per annum from 1.1.1988 till 1.5.1989.

7. In view of the above facts and circumstances, the present application is allowed and the respondents are directed to pay interest ^{on the aforesaid amount paid in May 1989 only} at the rate of 6 per cent per annum calculating the same after three months of the date of judgment in O.A. 109/86 w.e.f. 1.12.1988, but the interest shall be payable to the applicant only till the date of payment, i.e., upto 1.5.1989. There will be no orders as to costs.

J. P. Sharma
(J. P. Sharma) 18.3.93
Member (J)