

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

(13)

OA NO.759/90

DATE OF DECISION:

12.9.1991

SHRI S.K. DUGGAL

...APPLICANT

VERSUS

UNION OF INDIA & OTHERS ...RESPONDENTS

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER (J)

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

FOR THE APPLICANT

SHRI B.S. MAINEE, COUNSEL

FOR THE RESPONDENTS

SHRI JAGJIT SINGH, COUNSEL

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE
MR. I.K. RASGOTRA, MEMBER (A))

Shri S.K. Duggal, the applicant in this Original Application, filed under Section 19 of the Administrative Tribunals Act, 1985 is claiming interest on the delayed payment of his retiral benefits and is aggrieved by the impugned order No.BB/P/Settl/IRA/88/102 dated 23.3.1990 (Annexure A-1).

2. The undisputed facts of the case are that the applicant was appointed on the Indian Railways on 22.5.1974 and was sent on deputation to the National Thermal Power Corporation (NTPC for short), New Delhi initially for a period of two years. He got absorbed in the NTPC w.e.f. 7.4.1985. He was paid his retiral benefits as per details below:-

S.No.	Nature of amount of payment.	Amount	Letter/Cheque No. with date
1.	Provident Fund	Rs.36251/-	ADAO/THKNo.1 P/ Sett/110/148 dt. 21.4.86
2.	Gratuity	Rs.13139/-	Cheque NO. C 511251 dt. 7.12.88.
3.	Comuted value of pension	Rs.72776/-	Cheque No.511300 dt. 14.3.89.

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He gave his option vide his application dated 14.4.1986 for drawing lump sum payment in lieu of pension.

The Foreign Service Contribution which was due from him/his employer was remitted by the applicant to the respondents for the period from 8.4.1982 to 7.4.1985 when he was on deputation vide cheque dated 14.3.1985 which was credited in the respondents account on 4.7.1985.

Since the payment of the retiral benefits to the applicant were getting delayed, he also projected his case in the Pension Adalat to be held by the respondents on 15.12.1988, as is evident from Annexure A-6.

3. We have heard the learned counsel for both the parties. The main reason advanced by the respondents for delay in the payment of retiral benefits to the applicant is that he was not entitled to pension and they had to seek the Railway Board's sanction by projecting the special circumstances of the case.

From Annexure R-1 to the counter filed by the respondents, however, we find that no specific sanction was issued by the Railway Board. On the other hand, the Railway Board in their letter dated December 16, 1988 merely stated that:-

"Shri Duggal will be eligible for pro-rata pensionary benefits in terms of Department of Personnel and Training's Order No.280/6/5/85-Estt. dated 31.1.86 circulated under Board's letter No.F(E)III/86/PNI/5 dated 16.4.86..... Of course Shri Duggal will be eligible for proforma pensionary benefits, if Foreign Service Contribution has been received by the Railway."

The Foreign Service Contribution was received by the Railway on 4.7.85 and the option for drawing lump sum amount in lieu of pension was exercised by the applicant on 14.4.1986. There is, therefore, merit in the claim of the applicant for payment of interest for the considerable delay in payment of his dues. As far as the amount of Provident Fund is concerned, the applicant shall be entitled to be paid interest at the

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applicable rates for the period 7.4.85 upto the date of actual payment, i.e., 21.4.86. Similarly the applicant shall also be entitled to be paid interest at the rate prescribed under the relevant rules, three months after the date of acceptance of technical resignation, i.e., 6.7.1985 to the date of actual payment, i.e., 7.12.1988. As far as the payment of amount in lieu of full pension is concerned, although there is no provision for payment of interest in the rules, it is apparent that the applicant has been put to substantial loss due to the delay in payment which was made on 14.3.89, by way of ~~frankly~~ loss on the amount paid. It is more so, as in such cases the capitalised value of pension is paid as a one time measure to discharge the life time liability and only updating of value of money takes place by way of interest received ~~on~~ ~~2~~ investment. The applicant, however, became entitled to the payment of lump-sum only after he had exercised the option to draw the full commuted value on 14.4.1986. In the special circumstances of this aspect of the case, we order and direct that the applicant shall be paid interest at 12% per annum for the period 14.7.1986 (three months after the date of option) to the date of actual payment viz. 14.3.1989, assuming that it would have taken three months to process the papers regarding the sanction of pension. The respondents shall make payment of interest to the applicant within 10 weeks from the date of communication of this order.

The O.A. is disposed of with the directions, as above with no order as to costs.

Abhijit
(I.K. RASGOTRA)

MEMBER(A)

12/9/91

Abbas
(T.S. OBEROI)

MEMBER(J)

/SKK/