

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI.

(11)

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Date of Decision:

3.4.92

OA 1763/91

K.K. PURI

... APPLICANT.

Versus

UNION OF INDIA & ANR. ... RESPONDENTS.

CORAM:

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

FOR THE APPLICANT

...SHRI G.D. BHANDARI,
COUNSEL.

FOR THE RESPONDENTS

... SHRI K.K. PATEL,
COUNSEL.

1. Whether Reporters of local papers may be allowed to see the judgement ?

2. To be referred to the Reporters or not ?

JUDGEMENT

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

The applicant, in this case is retired Superintendent, Track Depot, Northern Railway, Ghaziabad, and by the letter dated 25.2.1991, the General Manager has ordered to release the leave encashment amount totalling Rs.21545/-. The grievance of the applicant is that this amount has been released after three and a half years, so that applicant should be allowed 18%

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interest per annum from the date of applicant's retirement i.e. 31.10.1987 to the date of payment dated 21.3.1991.

2. I heard the learned counsel at length and have gone through the records of the case. The applicant is undergoing a DAR that is Vigilance Inquiry and the necessary papers of the applicant were in the disciplinary proceedings. An award of interest is awarded in such a matter, where there is administrative lapse on the part of the department. In para-4(vi) of the counter, the respondents have alleged that the applicant has been guilty of gross misconduct during his tenure and the Vigilance enquiry is going on against him. Against this, the applicant in his rejoinder stated that the enquiry was conducted by the Northern Railway Headquarters Officer, Vigilance Branch and they found no substance in the allegations which cannot be proved and as such, no action was initiated by the Northern Railway against the applicant.

By This actually is not so/the order dated 25.2.1991 where it has been ordered that the leave encashment of the applicant be released, which cannot be withheld on the ground of disciplinary proceedings. The opening para of the memo dated 25.2.1991 (Annexure A-2) shows that the case has already been referred to the President/of India

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for obtaining sanction for withholding cut in DCRC under para 2308/R-II through the Railway Board.

3. In view of the above facts it cannot be said that the delay in payment of the amount of the encashment leave has been due to any administrative lapse and that appears to be on the ground of ignorance of the rules on the subject. Further, it appears that the applicant himself has applied for releasing of the amount of leave encashment by the representation dated 10.12.1990 (Annexure A-1). In this, the applicant did not claim any interest. It was only after the necessary payment has been effected on 21.3.1991 when the applicant made a representation on 26.3.1991. Thus, this appears to be ^{an} after thought and not bonafides request for payment of interest.

4. The payment of interest is always in the discretion of the court. There was no relevant rules like that of DCRC where the delayed payment and fixes the liability on the respondents to pay interest on withheld amount. The payment of interest, therefore, is only on the principles of natural justice. The principle of natural justice have to be interpreted in a manner which suits the equity at either side. When there is no willful fault on the part of the

administration and there was also no demand by the applicant after retirement till the payment of the amount of leave encashment, the court will not award interest in such a case.

5. The application, therefore, is devoid of merit and dismiss leaving the parties to bear their own costs.

J. P. SHARMA 31/4/92
(J. P. SHARMA)
MEMBER (J)