

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A. No. 2079/91, MP No. 66/92

New Delhi, this 18th day of November, 1993

THE HON'BLE MR. J.P.SHARMA, MEMBER (J)
THE HON'BLE MR. B.K. SINGH, MEMBER (A)

M.S. Yadav,
Son of Shri Layak Singh Yadav
C/o Smt. Radha Rani Rajora
204 AMRITPUR GARHI 8,
Lajpat Nagar, New Delhi

.... Petitioner

(By Advocate Shri R.L. Sethi)

VS

1. The General Manager,
Central Railway,
Bombay VT.
2. The Chief Personnel Officer,
Central Railway,
Bombay, VT.
3. Chief Engineer, Central Railway, Bombay
4. Divisional Manager,
Railway Central Rly
Bhopal
Madhya Pradesh. Respondents

(By Advocate Shri N.K. Aggarwal)

O R D E R (oral)

Hon'ble Mr. J.P. Sharma, Member (J)

Shri Mahavir Singh Yadav, the applicant, had retired as AEN from the Central Railway on 31.12.1990. The grievance of the applicant is that after retirement he was not paid retirement/terminal benefits due to him i.e. leave encashment, DCRG, one-third commutation value pension till March 1991, and April 1992 respectively. The case of the applicant is that there was no departmental enquiry pending against him nor there was any cloud under which there was a delay in payment of the terminal

benefits. The applicant has also made representation but the same was not heeded to and he filed the present application on 10.9.1991. He has, therefore, prayed for the grant of the reliefs that DCRG amount as well as the commuted value of the one-third pension be paid with 12% interest per annum alongwith the final pension. The respondents were issued a notice and they contested the application stating that there was some complaint against the applicant and since the applicant retired so the said complaint was dropped.

We have heard the learned counsel for the respondents Shri N.K. Aggarwal in the pre-lunch session and he was not available after lunch. Shri S.S. Kalia also argued before lunch but the arguments could not be concluded so to be resumed immediately after lunch in the presence of the departmental representative Shri A.K. Hingorani, Chief Personnel Inspector, Northern Railway. We also desired to further adjourn the matter tomorrow but the departmental representative showed his inability to be present tomorrow. So we decided the matter on the basis of the arguments advanced earlier by Shri N.K. Aggarwal on the side of the respondents and in the basis of submissions made by the counsel for the applicant.

The gratuity is not a bounty but it is a hard earned money due to sufficient length of service put in by the employee with the respondents. The reasons shown in the counter that some complaint was pending and that it was ultimately dropped should not come in the way of awarding interest to the applicant for delayed payment. Award of interest would not be enrichment to the applicant as it is provided under Railway Pension Manual, 1950 Rule 303. Similarly, it was pointed out during the course of the arguments by the departmental representative that the commutation

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value of the pension was determined with effect from the date of retirement of the applicant i.e. 31.12.1990. It goes to show that the applicant was never paid full pension as arrears of pension when it was ultimately sanctioned. One-third amount of the pension was therefore withheld from the payment from the time it fell due to the applicant i.e. 1.1.1991. As such the applicant has been deprived of certain monetary gain for non payment of the pension immediately after retirement. In view of these facts and circumstances the applicant is entitled to interest both on DCRG as well as on the commutation value of pension.

As regards interest on leave encashment that has not been prayed for. Any relief not asked for cannot be granted. Otherwise also we do not find any justification to award interest as leave encashment amount was paid in March 1991 itself.

The application is, therefore partly ~~disallowed~~ allowed with the direction to the respondents also to pay the interest to the applicant from 3 months after the date of retirement i.e. from April 1991 to the date of payment i.e. 21.4.1992 @ 12% per annum within a period of 3 months from the date of receipt of the copy of the judgement.

In the above circumstances, parties to bear their own costs.


(B.K.Singh)

Member(A)

Mittal.


(J.P.Sharma)

Member(J)