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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1594/2004
MA 2397/2004

New Delhi, this the 8th day of September, 2005

HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)

Karam Chand Dhingra aged about 64 years
S/o Shri Inder Bhan Dhingra, retired Loco Inspector, Northern Railway,
R/o C/o Mr. P.K. Sharma, H R_187 Street No.5,
Pul Prahlad Pur, New Delhi.

Thru:

M L Sharma
H P Chakravorti
Advocates
BAR Room, C.A.T.
P/Bench, New Delhi.

...Petitioner

(By Advocate H.P. Chakravorty with Sh. M.L. Sharma)

VERSUS

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Divisional Railway Manager,
Northern Railway, Moradabad.

.....Respondents.

(None for the respondents)

O R D E R (O R A L)

None appears for the parties even on second call.

2. Vide MA 2397/2004, applicant (respondents in OA) seeks deletion of Chairman, Railway Board, Railway Bhawan, New Delhi from the array of respondents. Since there is no opposition to this MA, as prayed for, the Chairman, Railway Board, Railway Bhawan, New Delhi is deleted from the array of parties. Accordingly, MA stands disposed of.

3. Reply was filed on 1.3.2005. No rejoinder has been filed despite repeated opportunities granted to applicant. When the above order was being dictated, learned counsel for applicant appeared and argued the matter.

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4. In second round of litigation, applicant seeks directions to respondents "to pay the interest to extent of Rs.70,000/- approx. or greater or lesser sum as deemed just and proper" by this Tribunal.

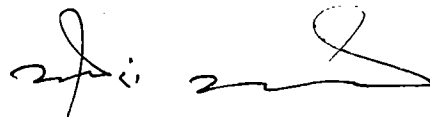
The facts, which are required to be noticed are that the applicant being aggrieved by the inaction of the respondents in not stepping up his pay at higher pay scale, approached this Tribunal by instituting OA No.2143/2002. Shri H.P. Chakravorty, learned counsel appearing on behalf of applicant stated that he had claimed interest along with other prayers in the said OA. The said OA was disposed of vide oral order dated 12.8.2002 with directions to respondents to consider his claim for stepping up of pay with effect from 7.10.1996 i.e. when his juniors were given the higher pay and pass reasoned and speaking order within the time limit prescribed. It is admitted case of the parties that the applicant retired on 30.6.1997 and had been paid all terminal benefits, which were due to him. After the aforesaid judgement, the applicant was paid a sum of Rs.4,342/- vide cheque dated 23.10.2002, Rs.16,320/- on 10.12.2002 and Rs.11,194/- vide PPO dated 01.02.2003 being the difference of pay, gratuity and leave encashment and revised pension respectively. The applicant contends that he is entitled to interest on these sums. In this regard, he has placed reliance on *JT 2001 (5) SC 171 [Vijay Mehrotra vs. State of U.P.]*.

5. Since there was no representation made on behalf of respondents even on second call, I was compelled to proceed with the matter under Rule 15 (1) of the C.A.T. (Procedure) Rules, 1987. On perusal of reply filed by respondents, I find that a categorical statement has been made therein that except DCRG all pensionary benefits due to the applicant were paid on his retirement well in time. The amount of DCRG was kept pending due to non-vacation of Railway quarter and on vacation of said Railway accommodation, the amount of DCRG was also released on 15.10.1997. Applicant's pay was revised as per recommendations of 5th Central Pay Commission w.e.f. 1.1.1996 and the difference of Rs.2,23,008/- in respect of DCRG on the aforesaid recommendations was arrived at and paid to the applicant on 1.8.1998. The respondents have also raised the objection

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regarding res-judicata and further stated that the aforesaid directions issued by this Tribunal in OA No.2143/2002 stands fully implemented vide letter dated 1.10.2002 and 3.12.2002, therefore, nothing remains due to the applicant. I may note that no rejoinder has been filed against the said stand taken by respondent in their reply affidavit.

6. I have heard the learned counsel for applicant, perused the reply filed by respondents as well as facts and given my thoughtful consideration to the same besides the ruling cited by learned counsel for applicant. On perusal of the same, I find that in the aforesaid judgement, there was no reason mentioned by the respondents for the delay in making the retrial benefits. In such circumstances, the interest was allowed. Such are not the facts in the present case. The applicant was paid all retrial benefits due to him immediately after retirement in the year 1997. He was even paid the enhanced amount of DCRG in the year 1998 much before when he approached this Tribunal vide OA No. 2143/2002. Since, it is admitted by the applicant that he had sought the grant of interest vide the aforesaid OA but it had not been granted, the applicant in the present proceeding, cannot be allowed such interest, as prayed for. What could not be achieved directly, cannot be granted indirectly, is a well-settled law.

7. In view of the analysis of facts, I do not find any justification in interfering with the respondents' action and OA being devoid of any merit is dismissed. No costs.


(Mukesh Kumar Gupta)
Member (J)

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