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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

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O.A. NO. 1973/92

DATE OF DECISION : 30.10.92

Shri Joginder Singh

...Applicant

Vs.

Union of India & Ors.

...Respondents

CORAM

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

For the Applicant

...Shri H.L. Bajaj, proxy  
counsel for Shri B.S. Maini,  
counsel

For the Respondents

...None

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?

JUDGEMENT

The applicant retired as Senior D.S.K.P.(Construction) while working under Deputy Chief Engineer (Construction), Northern Railway, Shakur Basti and is aggrieved by delay caused in payment of DCRG as well as leave encashment, which were paid to him on 22.1.1992 and 12.4.1990 respectively although the applicant has retired on superannuation from service on 31.7.1987. The applicant has claimed the interest @18% p.a. on the amount of Rs.21,963 of leave encashment, which was paid to him on 12.4.1990 and not immediately after retirement on 31.7.1987. He has further

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prayed interest @18% on the amount of Rs.45,375 from the date which was due till the date of payment, i.e., 22.1.1992. The notices were issued to the respondents. Respondent Nos.1 and 2, i.e., General Manager, Northern Railway, Baroda House and Chief Administrative Officer (Construction) were duly served and the service on Deputy Controller of Stores, Northern Railway was awaited and since the notices were not received unserved, so after a period of one month from the date of issue of notice the service is deemed against respondent No.3 also. Thus there is no contest by the respondents to the present application of the applicant in which he has claimed the relief of payment of interest on the delayed payment of leave encashment and DCRG.

2. The case of the applicant is that he retired on superannuation on 31.7.1987. But he was not paid the retirement benefits. So he filed OA 1164/89 before the Central Administrative Tribunal, Principal Bench praying for a direction to the respondents to pay the amount of gratuity as well as leave encashment with interest @18%. In that OA, an interim

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direction was issued for payment of leave encashment and in view of that direction, leave encashment amount of Rs.21,963 was paid to the applicant on 12.4.1990. In fact the applicant was served with a major penalty chargesheet dt. 11.6.1987 in which it was alleged that the applicant had caused a loss of Rs.94,515 to the Railway administration. The inquiry continued against the applicant even after retirement, but no final order was passed. However, by the order dt. 11.12.1991 (Annexure A2), the respondents dropped the departmental proceedings against the applicant after consultation with the U.P.S.C. The office of the Deputy Chief Engineer, Shakur Basti, therefore, issued a Memo dt. 27.12.1991 to the Deputy COS that since the President in consultation with the U.P.S.C. has dropped the proceedings against the applicant, so the outstanding settlement dues against the applicant be settled. The applicant, therefore, was paid the DCRG amount as said above, on 22.1.1992.

3. There was no justification for the respondents to withhold the leave encashment after retirement and they have

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paid the same on the direction of the Tribunal issued in OA 1164/89 and that application appears to have been disposed of on 13.9.1991. The applicant, however, has not filed any copy of the judgement passed in that OA. In fact it was open to the applicant to claim for interest in the same OA before it was finally disposed of. The applicant cannot, for the same cause of action, again file a separate OA for the payment of interest in that regard. Though the applicant has made a declaration in column 7 of the application that he has not filed any other application with respect to that relief, but that statement of fact appears to be not correct. That OA has been disposed of with the direction to the respondents to finish the departmental proceedings within a period of two months. However, in that judgement in OA 1164/89, no direction was issued to the respondents to pay interest on the amount of leave encashment because of the delay in its payment. The applicant, therefore, cannot be granted that relief, though the delay has been occasioned on the part of the respondents on account of the ignorance of the relevant rules. Leave encashment cannot be withheld in any case and that should have been paid.

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4. However, since the applicant has been restored to the same position after his exoneration from the <sup>accusations</sup> ~~acquisitions~~ on account of the departmental proceedings which commenced on submission of a chargesheet and were subsequently dropped after consultation with the U.P.S.C. on 18.11.1991, which was communicated to the applicant on 11.12.1991. Though the applicant retired on 31.7.1987, but he has not been paid any interest on the delayed payment of DCRG, which was withheld because of the pendency of the departmental proceedings against him. The applicant, therefore, is entitled to claim interest on this delayed payment.

5. The application, is therefore, partly allowed and as regards the relief of interest on leave encashment, that cannot be allowed and the prayer in that regard is disallowed. But the applicant is allowed interest on the delayed payment of the amount of DCRG, Rs.45,375 @12% p.a. three months after the date of retirement, i.e., from 1.11.1987 till the date of payment which the applicant alleged to be 22.1.1992. The respondents shall comply with the above

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directions within a period of three months from the date of receipt of a copy of this judgement. In the circumstances, the parties shall bear their own costs.

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*J. P. Sharma*  
(J.P. SHARMA) 30.10.92  
MEMBER (J)