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

(6)

OA 91/92 04.09.1992

Shri Kewal Krishan Sharma ...Applicant

VS.

Union of India & Ors. ...Respondents

CORAM :

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

For the Applicant ...Shri S.K. Sawhney

For the Respondents ...Shri N.K. Aggarwal

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

2. To be referred to the Reporter or not?

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

The applicant, Shri Kewal Krishan Sharma retired as Inspector of Works, Northern Railway on 30.9.1988 while posted at Delhi under the Chief Engineer (Construction), Northern Railway, Kashmiri Gate. After retirement, the applicant has not been paid the DCRG amount as it appears that certain vigilance/departmental enquiry under Discipline and Appeal Rules was pending, the chargesheet of which has already been served upon him before his retirement. The case of the applicant is that he has been cleared from all the charges and has been honourably exonorated, so the amount of DCRG due to him of about Rs.45,345 be ordered to be paid with 18% p.a. interest.

The notices were issued to the respondents and the respondents have been given sufficient time since January,

...2...

1992. A number of adjournments were granted to the respondents in the presence of their counsel to file the reply, but the same has not been furnished. The matter also came yesterday, i.e., 3.9.1992 when thelearned counsel for the respondents made further request for grant of time, but in the circumstances of the case as well as for the facts stated above, further time to file the reply was not granted. However, the learned counsel for the respondents was given time, if he wishes, to argue the case on merits today. The learned counsel for the respondents argued that since the aplicant was exonorated from the enquiry on 1.4.1991 and he made the representations sometimes on 10.4.1991, so as a matter of course, he cannot be granted interest for the delayed amount of DCRG from the date of the retirement. Secondly, the learned counsel for the respondents also argued that the applicant is claiming gratuity for the period of having worked for about 35 years, i.e., in terms of calculation of DCRG for sixteen and half years and since there is nothing on record, any direction in that regard would not be substantiated from any document. Thirdly, it is also argued that the applicant himself is at fault as he has not annexed the copy of the order of his exonoration by the order dt. 1.4.1991.

I have heard the learned counsel for the parties at length. Firstly it is not in dispute that the applicant is

...3...

entitled to the DCRG. It can also not be said that the respondents could not withhold that amount under the relevant provisions because the chargesheet was served upon the applicant much before his retirement. Even if considering the fact that the respondents have a right to withhold the DCRG amount, if the chargesheet is pending against him foir final decision, then if ultimately the charges are dropped and the applicant is honourably exonorated from the charges levelled against him, then he is put in the same position retrospectively in which he was at the time of the retirement. It was for the department to hold an enquiry and they have a right to hold it and they have rightly held it. But when after holding an enquiry, the applicant was not defaulted of blame nor penalised, then he cannot now be penalised in any manner whatsoever giving him a pecunary loss by retention of the DCRG amount beyond the prescribed period by the respondents.

The award of interest is very much laid down in the circular issued by the Railway board dt. 14.8.1984, enclosed by the learned counsel for the applicant at p-9 of the paper book (Annexure A4). In a case decided by the Hon'ble Supreme Court 27.11.1989 in Raj Pal Vahi Vs. Union of India in SLP 7688-91, the Hon'ble Supreme Court disallowed the interest only on the ground that there were no administrative lapses, but because of certain circular of the Railway Board. In this case that circular halps the applicant. The commencement of

...4...

9

Disciplinary and Appeal Rules enquiry against the applicant cannot be said to be because of any circular of the Railway Board. It was an act decided by the superior to pursue certain remedy against the applicant for alleged fault committed by the applicant during the course of his service. Thus to my mind, the case for withholding of interest in this case from the date of retirement or two months thereafter does not arise. The contention of the learned counsel for the respondents that the interest should, if at all, be liable to be paid to the applicant from 1.4.1991, cannot be accepted. Regarding the amount of DCRG, it is a matter of record that the respondents from the record checked up the amount to which the applicant is entitled by virtue of having put in the length of service with the respondents. No findings, therefore, are given on the length of service as well as on the amount of DCRG due to the applicant.

The appliation is, therefore, disposed of in the manner that the respondents are directed to pay the due amount of DCRG to the applicant along with interest @ 10% p.a. commencing two months after the date of retirement and till the date of actual payment. In the circumstances, the parties shall bear their own costs.

(J.P. SHARMA) 4-9-92
MEMBER (J)