

Central Administrative Tribunal
Principal Bench

O.A.No.2040/93

This the 29th day of August, 1997.

HON'BLE SHRI S.P.BISWAS, MEMBER(A).

Mashim Raza Hamidi
S/o Shri Qazi Wali Raza
C/o Saeed Ahmad Siddiqui
R/o H-5/5-A, Model Town II,
Delhi-110009.

..... Applicant

(By Advocate Shri H.P.Chakravorty)

Versus

Union of India through the Secretary
Ministry of Railways, Rail Bhawan,
New Delhi.

2. The General Manager, Northern Rly,
Baroda House, New Delhi.

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

..... Respondents.

(By Advocate Shri K.K.Patel)

ORDER(Oral)

By Hon'ble Shri S.P. Biswas, Member(A).

This is second turn of litigation resorted to by the applicant who retired as Gaurd Grade "A" from the services of Railway w.e.f. 30.6.1990. This round of litigation has surfaced as reply of the respondents, following the directions of this Tribunal in OA-2290/91, does not reflect the correct position in respect of applicant's claim. The applicant would still claim that he has been paid leave encashment dues only to the extent of 39 days. The exact amount which was due to him on the above count comes to Rs.27,347/- which should have been paid to him on the date of retirement but respondents have fail to do so. Again, as per the applicant Rs.11,628/- has been paid less to him on account of gratuity. The

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applicant has also claimed interest on the delayed payment of retirement benefits. Learned counsel for applicant could not cite specific provisions of the rules which would support his claim. He would however, submit that such records are maintained by the respondents and it is for them to establish if due payments have been made.

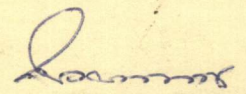
2. In the counter, learned counsel for respondents submits that settlement of the dues of the applicant has been under section 16 of Railway Service(Pension Rules)1993. As per respondents' records and rules, since the leave was due only for 39 days, the due amount payable came to Rs.33,847/-. The deduction of Rs.11,628/- was because of the excess payment on leave account. Full amount could not be paid since the applicant continued occupying the Government accommodation beyond the date of retirement.

3. The issues that falls determination is the correctness of the position in respect of "Earned Leave" due to the applicant and the amount of the licence fees ^{required} the applicant was to pay for his overstay in the Govt. accommodation after 30.6.1990. These are the issues ^{is} the respondents department was to sort out and it/hardly for the Tribunal/Court to adjudicate such disputed matters. Under rules laid down by the Hon'ble Supreme Court, it is not possible for the Tribunal to make roving enquiry about the disputed facts and enter into findings based on unsubstantiated evidences. The appeal, therefore, fails on merits.

4. However, since the issue relate to the retiral benefits, the learned counsel for the respondents agreed to show the records of the respondents as to how the amounts due to the applicant have been worked out.

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5. In view of the details aforesaid, I direct, the respondents to make the relevant records available to the applicant for letter's perusal. Only those papers pertaining to leave due/leave salaries and also details of the deductions made from gratuity be shown to the applicant. This shall be done within a period of three months from the date of receipt of a certified copy of this order. This OA is disposed of accordingly with liberty to the applicant to agitate this issue, at the proper forum if there are reasons to do so. No order as to costs.



(S.P. BISWAS)
MEMBER (A)

RB