

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

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O.A.No. 29/93

Date of Decision 3.8.93

Sh.V.K. Thapar ...

Applicant

V/s

U.O.I. & Ors through
The Secy. Railway Board.

Respondents

FOR THE APPLICANT

Sh.S.P. Singha, counsel

FOR THE RESPONDENTS

Sh. Rajesh, counsel

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Hon'ble Sh. B.S. Hegde, Member(J)

JUDGEMENT

(delivered by Sh. B.S. Hegde, Member(J))

This application is filed under Section 19 of the Administrative Tribunals Act, 1985 prays for grant of interest on the net gratuity of Rs 36,576.00 at the rate of 18% per annum for the period of 16 months and 23 days from 1.8.89 to 24.12.1990.

The applicant was a Senior Administrative Grade (S.A.G.) Officer in Group 'A' service of the Indian Railway Traffic Service in the scale of Rs 5900-6700 and was posted as Joint Secretary in the Department of Mines, Govt. of India, Ministry of Steel and Mines on deputation from the Indian Railways. The applicant sought voluntary retirement which was accepted on 31.7.89 by the Ministry of Railway. By virtue of the voluntary retirement, the applicant received all the retirement benefits except the amount

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of gratuity , Rs 1,00,000 out of which Rs 62,424-00 was to be deducted towards HBA, Motor Car Advance including interest. Therefore, the net amount of Rs 36,576.00 after recovery of all dues was due to him. He could not be paid the balance amount in time due to various grounds.

The applicant kept his lien in Southern Railway while working in Southern Railway, he had gone on deputation with Fertilisers Corporation of India, Barauni w.e.f. 15-4-71 to 22.11.73 and further deputation in the department of Mines w.e.f. 20.11.84 in to 31.5.89 while he was working/the Northern Railway. He sought voluntary retirement while he was in the Ministry of Steel and Mines. The applicant's claim is based mainly on the content of the circular Rule 68 which reads as follows:-

" Interest on delayed payment of gratuity.

(i) If the payment of gratuity has been authorised after three months from the date when its payment became due, and it is clearly established that the delay in payment was attributable to administrative lapse interest at such rates as may be prescribed by the Govt. from time to time in this behalf) on the amount of gratuity in respect of the period beyond three months shall be paid ;

Provided that the delay in the payment was not caused on account of failure on the part of the Government servant to comply with the procedure laid down in this Chapter".

The respondents in their reply have taken the plea that since the applicant was on deputation in other departments though the correspondence and the process of computation and calculation for making payment to the

retirement benefits to the applicant took some time and there was no deliberate delay on the part of the respondents. Further, though the records relating to the services of the applicant was sent by the Ministry of Steel and Mines to the Respondents, they have not calculated the interest on the advance made on the Motor Car and H.B.A. Therefore, they were compelled to send back the reference to the Ministry of Steel and Mines for further consideration vide their letter dated 21.11.89 and the reply was sent by the Ministry of Steel and Mines only on 9.1.90. The details given in that letter was not complete and interest due on the H.B.A. to be calculated by the Northern Railway as the H.B.A. sanctioned was by them in last pay certificate sent by the Ministry of Steel and Mines did not show Motor Car advance and the interest calculation thereon which is on record.

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Respondents have also raised a plea that this application is barred by limitation on the ground that after receipt of their office letter dated 1.4.91 and elapse of 20 months, the applicant had filed this O.A. It is contrary to section 21(3) of Central Administrative Tribunals Act, 1985. In this connection, the learned counsel for the respondents also draws my attention to the letter dated 20.1.91 addressed by the applicant to the General Manager(N.R.) for making prompt payment of dues. Nevertheless he

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mentioned that the interest from 31.7.89 to 24.12.90 may be paid to him.

I have heard the arguments of both the parties and perused the pleadings and records. It is not disputed that the applicant was on deputation w.e.f. 15.4.71 to 22.11.73 and further in the Department of Mines w.e.f. 20.1.84 to 31.5.89.

In the absence of requisite relevant information forthcoming from the Southern Railway and Fertilizers Corporation of India as well as from the Ministry of Steel and Mines where the applicant had worked on deputation for sometime during his tenure, the retiral benefits could not be finalised as per scheduled. As mentioned earlier except gratuity amount all other retiral benefits being paid to the applicant on time. Gratuity amount could not be paid for want of service information from the Fertilizers Corporation of India as well as from the Ministry of Steel and Mines where the applicant had worked before his voluntary retirement.

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On perusal of records, I find that there is no delay on the part of the respondents in clearing the retiral benefits since the applicant had taken House Building Advance as well as Motor Car Advance

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while he was on deputation and borrowing department have not calculated the interest amount due to the respondent together with the principle amount.

Therefore, the respondents were handicapped in calculating the exact amount payable after deducting the aforesaid dues from the applicant in order to make the final payment of the D.C.R.G. in this behalf.

Till the respondents received full *and complete* information regarding the actual amount recoverable from the applicant and the interest accrued on the loan, according to the Respondent it was not possible for the respondent to make any payment towards gratuity.

In the conspectus of the facts and circumstances of the case, I am satisfied with the explanation given by the respondents ^{*not alleged*} ~~delay~~ in making the payment of DCRG. There was no deliberate delay on the part of the respondents. Delay occurred, if at all, on account of borrowing department in not calculating the interest on Motor Car and House Building advance in time where the applicant had worked.

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In conclusion, this O.A. is devoid of
merit. There is no substance in the O.A. Hence O.A.
is dismissed with no order as to costs.

B.S. Hegde
(B.S. HEGDE)
MEMBER(J)

3/8/93

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