

( Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

ORIGINAL APPLICATION NO. 564 OF 1996

Allahabad, this the 31<sup>st</sup> day of May, 1999.

CORAM : Hon'ble Mr.G. Ramakrishnan, Member(A)

R. S. Singh Chauhan,  
Retd. Traffic Inspector,  
Northern Railway,  
ETAWAH

.....Applicant

By Shri R.P. Srivastava, Advocate

Versus

1. Union of India through General Manager,  
Northern Railway, New Delhi.
2. The Divisional Railway Manager,  
Northern Railway,  
Allahabad.
3. The Senior Divisional Operating Manager,  
Northern Railway, Allahabad.
4. The Senior Divisional Personnel Officer,  
Northern Railway,  
Allahabad.

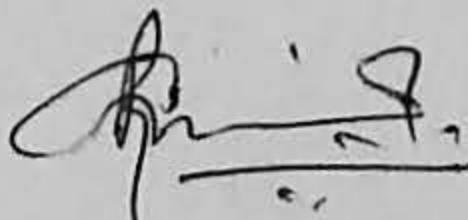
..... Respondents

By Shri A.V. Srivastava, Advocate

O R D E R

(By Hon'ble Mr.G. Ramakrishnan, Member(A) )

This is an application under Section 19 of the  
Administrative Tribunal Act, 1985 filed by the applicant  
who retired on 31-12-1988 for payment of interest @ 18%



per annum on the DCRG amount paid to him from 1-1-89 to 6-2-96 when the same was paid to him.

2. The facts which are not in dispute are that the applicant retired on superannuation as a Traffic Inspector on 31-12-1988. He was issued with charge sheet dated 21-12-88 for major penalty and the same were continued after his retirement on superannuation, under Rule 2308 of the Indian Railway Establishment Code Vol. II. Because of this, the applicant was not paid his DCRG on retirement. After enquiry under the Railway Servants D&A Rules, 1968 and after consulting the Union Public Service Commission, the President decided that the DAR proceedings against the applicant be dropped. Accordingly the charge sheet issued was dropped vide letter dated 29-11-95 (Annexure-A to OA) issued by Respondent No.3 wherein respondent No.4 was advised to take necessary action for making payment of DCRG to the applicant. DCRG was paid to the applicant on 7-2-96. Applicant sought the following reliefs :-

(1) That a mandatory order/Writ be issued to the respondent to pay penal interest @ 18% p.a. as under :-

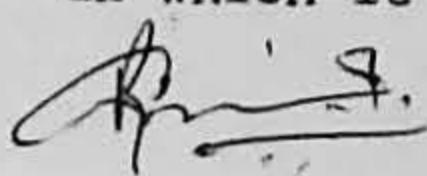
a) To pay interest on the Gratuity amounting to Rs.39,188/- (Rupees Thirty Nine thousand one hundred and eighty eight only) from 1.1.89 to 6-2-96 i.e. from the date of retirement to the date of payment on 7.2.96.

b) To pay interest on the outstanding amount (i.e. total amount of interest accrued upto 6.2.96) from 7.2.96 to the date it is finally paid.



- (2) Cost of litigation amounting to Rs.3,500/-  
(Rupees three thousand and five hundred only)  
incurred for release of the D.C.R.G.
- (3) Any other relief as deemed fit by the  
Hon'ble Tribunal.

3. According to the applicant he was issued with the charge sheet for major penalty, even though he committed no irregularity, because the then Senior Divisional Operating Manager was bent upon to punish him. Even though he replied to the show cause notice dated 18-9-89 issued to him by Sr.DOS/Allahabad proposing with holding of 12.33% of DCRG, on 26-10-89 no action was taken by the respondent. Even after a direction was issued by the Bench of this Tribunal on 1-4-91 in O.A.No.151/91 to take a decision within 30 days of the receipt of the order, no action was taken for payment of DCRG by the respondents. After 8 months the applicant filed Contempt Petition No.1855/91, and after issue of notice, respondents referred his case on 24-3-92 to General Manager, Northern Rly. for obtaining the sanction of the President. On 18-10-95 this Tribunal gave 3 months time for getting the sanction of the President failing which the DCRG would be released. Sr.DOM/Allahabad advised Sr.DPO/Allahabad on 29-11-95 regarding the dropping of the charge sheet and DCRG was released on 6-2-96. According to the applicant as the DCRG was with-held illegally for seven years by the respondents he was entitled to payment of interest @ 18% per annum for which he applied to Sr.DPO on 7-12-95. Further the applicant referred to the judgement of Hon'ble Supreme Court in State of Kerala and others Vs. M.Padmanabhan Nair (1985 SCC (L&S) 278) in which it was held : "Pension and Gratuity are no

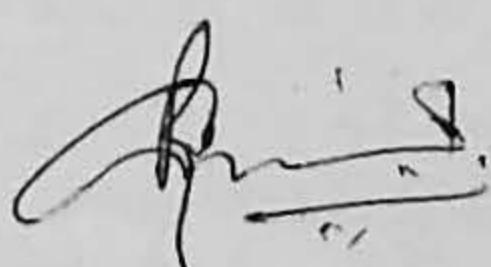


longer any bounty to be distributed by the Government ..... but have become, under the decision of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment."

4. Respondents filed written reply and resisted the claim of the applicant. They denied that the then Sr.DOM/Allahabad was inimical to the applicant. According to them as a charge sheet for major penalty was pending against the applicant DCRG could not be released and as soon as the decision for dropping the charges was received, within three months payment of DCRG was done. They stated that the claim of the applicant for interest was not legally tenable.

5. Applicant filed rejoinder and reiterated the pleas made in the O.A.

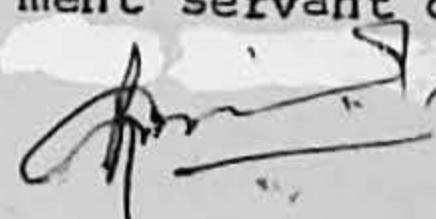
6. Heard the learned counsel for the parties. Learned counsel for the applicant referred to the Railway Boards' letter No. F(E)-( III)-PN 1/15 dated 25-5-1983 which governs the payment of interest in the type of cases as that of the applicant. He relied on the judgement of Hon'ble Supreme Court reported in 1985 SCC (L&S) 278 State of Kerala & others Vs. Sri Padmanabhan Nair. Learned counsel for respondents did not contradict the existence of the Railway Boards' circular referred by the applicants' counsel.



7. I have given careful consideration to the submissions made by the learned counsel for the parties and the rival pleadings and have also perused the records.

8. I find that payment of DCRG in this case was delayed due to the pendency of a major penalty charge sheet against the applicant. Railway Boards' letter No. F(E)-(III)-PN 1/15 dated 25-5-83 deals with the payment of interest on withheld DCRG to Railway servants who are exonerated on the conclusion of Disciplinary/Judicial proceedings against them. According to the letter, in the case of Railway servants who on the conclusion of the Disciplinary/judicial proceedings against them are fully exonerated, may also be allowed interest on delayed payment of interest @ 5% per annum and in such cases the gratuity will be deemed to have fallen due on the date following the date of retirement for the purpose of payment of interest on delayed payment of gratuity. I find that inspite of an application by the applicant dated 7-12-95 for payment of interest @ 18% p.a., respondent had not paid the interest even @ 5% per annum as per above referred letter of Railway Board till the admission of this original application on 16-8-96 by this Tribunal.

9. Hon'ble Supreme Court in the cases referred to by the learned counsel for the applicant as well as in a recent judgement decided on 22-3-99 by a three Judge Bench of the Hon'ble Court (Writ Petition (Civil) No.771 of 1995 : Dr.Uma Agrawal vs. State of U.P. and and another) held that in cases where a retired government servant claims interest for delayed payment, the

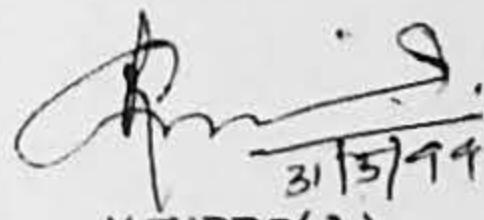


court can certainly keep in mind the time schedule prescribed in the rules/instructions apart from other relevant factors applicable to each case. The Hon'ble Court had also stated that in several cases decided by the Apex Court, interest at the rate of 12% per annum had been directed to be paid by the State.

10. Keeping in view the Railway Boards' letter dated 25-5-1983 and the law laid down by the Hon'ble Supreme Court I am of the view that the applicant is entitled for interest @ 12% per annum on the withheld DCRG till its payment. As the respondents did not act on the Railway Boards' letter dated 25-5-83 and make payment of interest even @ 5% p.a., interest on the amount of interest due till the date the O.A. was admitted for adjudication in the Tribunal is also payable. Accordingly (i) respondents are directed to pay interest at the rate of 12% per annum on the amount of DCRG of Rs.39,188/- for the period from 1-1-89 to 6-2-96, (ii) respondents are also directed to pay interest at the rate of 12% per annum on the amount of interest calculated under (i) above for the period from 7-2-96 to 16-8-96.

(iii) Respondents are directed to make the payment of the amount due under (i) and (ii) above within a period of 45 days from the date of receipt of the copy of this order.

11. The O.A. is disposed of with the above direction with no order as to costs.

  
31/5/96  
MEMBER(A)

/ satya/