

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 24th day of February 2003.

QUORUM : HON. MAJ. GEN. K.K. SRIVASTAVA, A.M.

HON. MR. A. K. BHATNAGAR, J.M.

O. A. No. 1085 of 1996

Udai Shanker Tripathi, aged about 61 years S/O Late Sri Ram  
Khelawan Tripathi, P.W.I.(Retd.) R/O Village Jangal Mata Deen,  
Post Office Padari Bazar, District, Gorakhpur.

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..... Applicant.

Counsel for applicant : Sri A.K. Srivastava.

Versus

1. Union of India through the Chairman Railway Board, Rail  
Bhawan, New Delhi.
2. General Manager, N.E. Railway, Gorakhpur.
3. Chief Engineer, N.E. Railway, Gorakhpur.
4. D.R.M.(P), Sonpur N.E. Railway (Now East Central Railway).

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..... Respondents.

Counsel for respondents : Sri P. Mathur.

ORDER (ORAL)

BY HON. MAJ. GEN. K.K. SRIVASTAVA, A.M.

In this O. A. filed under section 19 of A.T. Act, 1985,  
the applicant has prayed for a direction to Respondents to  
pay the applicant the amount of DCRG, amount of leave encash-  
ment for 157 days and a sum of Rs.25,000/= illegally recovered  
from the salary. He has also prayed for a direction to the  
Respondents to pay him the revised pay scale in terms of  
promotion order in the grade of Rs.2375-3500 and to fix monthly  
pension accordingly with consequential benefits. The applicant  
has further prayed to promote the applicant w.e.f. 1981 from  
PWI-II to PWI-I, fix the salary as per rules and also to pay  
the entire amount of p-rovident fund after correct calculation.

2. The facts, in short, are that the applicant was  
employed in the Respondent's establishment and he retired as  
PWI on the date of his superannuation on 31.7.93. The responde

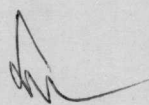


vide order dated 11.6.1996 (Annexure-I) issued the order promoting the applicant as Chief PWI w.e.f. 1.3.1993 under restructuring. The applicant represented before the respondents regarding non-payment of post retiral benefits on 12.3.1996 and other benefits. However, since the applicant's grievances were not fully redressed, he filed this O.A. which has been contested by the respondents by filing counter reply.

3. Sri A.K. Srivastava, counsel for the applicant submitted that the calculation of the leave due to the applicant was not done correctly. Besides extra amount has been recovered from the applicant towards scooter advance which he took and repaid fully. Inviting out attention to para 4.4 of the application, counsel for applicant submitted that the recovery of Rs.1000/= per month from the salary of the applicant has been made w.e.f. Dec.1989 to November 1991 illegally but the same has not been refunded to the applicant. Counsel for the applicant argued that the recovery was made on the premise that there was shortage in stock which ultimately, on verification, was found to be ~~in~~ incorrect.

4. Counsel for the applicant further submitted that the amount of DCRG, which was payable to the applicant on 1.8.1993, has been paid to the applicant only by cheque dated 12.6.02 and, therefore, the applicant is entitled for interest on the amount from the date he superannuated.

5. Opposing the claim of the applicant, counsel for the respondents submitted that the leave in balance has properly been calculated and the applicant has been paid the leave encashment for 83 days. As regards scooter advance, counsel for respondents submitted that the applicant failed to furnish the receipt in token of the proof that he had purchased scooter from the advance he took within the stipulated time. Penal interest was levied and the extra amount has been recovered from the applicant on account of this. Regarding delayed payment of DCRG and arrears, counsel for respondents submitted that the






cheque for the same was sent to the applicant on 23.4.1997, which was returned with postal remarks that the applicant is not staying there. The amount was again sent to the applicant through cheque on 4.5.1998. However, the cover containing the cheque, also received back as undelivered. The money was lying with the railways under the head 'unpaid amount' and ultimately the payment was sent through a cheque on 12.6.02 which has been paid.

6. We have heard counsel for the parties, considered their submissions and perused the records.

7. The respondents were directed to produce the original records vide order dated 15.1.01, 24.4.01 and 13.3.02 along with the due and drawn statement. The respondents have filed supplementary reply along with the original records. We have perused the same. On perusal of the leave account and other original records produced before us, we find that in the leave account of the applicant only 83 days were left and no irregularity has been committed by the respondents in making payment towards leave encashment of 83 days. In the original records we have perused the letter dated 22.8.1997, sent by Senior D.P.O., Sonpur to Assistant Secretary, Public Grievances, Gorakhpur wherein it is mentioned that the applicant failed to furnish the receipt in token of having purchased the scooter and, therefore, penal interest was levied on him. We are satisfied with the action of respondents in this regard as well and we do not consider that the applicant has any claim as regards the excess recovery on account of scooter advance.

8. We have gone through the averment of the applicant in para 4.4. wherein he has specifically averred that Rs.1000/= per month was deducted from the salary of the applicant w.e.f. Dec.1989 to Nov.1991 on the ground that there was shortage of stock. However, this amount of Rs.25,000/= has not been refunded to the applicant so far. The respondents have given reply in this regard in para 11 of the counter and no specific

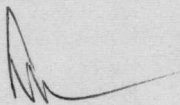


denial has been made. Therefore, in our opinion, the applicant is entitled for a refund of Rs.25,000/= which was recovered from his salary from Dec.1989 to Nov.1991. We consider that the ends of justice shall be served if the applicant makes a representation in this regard to DEM(P), Sonpur who will settle the same within three months from the date such a representation is filed before him.

9. The respondents have accepted in para 5 of the supplementary reply that at the time of superannuation, the applicant was entitled for gratuity of Rs.48,590/= after deducting rent and electric charges. This amount has been paid by the respondents only by cheque dated 12.6.02. Assuming that there was a disciplinary case pending against the applicant as is indicated in para 8(c) of the relief clause, it appears from the order dated 11.6.1998, filed as Annexure-I, that the applicant was exonerated because the promotion orders could not be issued by the Respondents w.e.f. 1.3.1993 in case any disciplinary proceeding was pending on that day. The applicant superannuated on 31-7-1993 and since the promotion to the post of Chief PWI has been issued w.e.f. 1.3.1993 (Annexure-I), the applicant is entitled for payment of interest on account of late payment of DCRG.

10. In the facts and circumstances, the O.A. is partly allowed with following directions :-

(i) The applicant shall file a fresh representation within four weeks before the DEM(P), Sonpur with regard to refund of Rs.25,000/= recovered from the salary of the applicant w.e.f. Dec.1989 to Nov.1991 @ Rs.1000/= per month. The DEM(P), Sonpur shall decide the same within three months from the date representation of the applicant is received along with the order of this tribunal. In case it is found that the claim of the applicant is genuine and he is entitled for refund of Rs.25,000/=-, he shall be paid interest @ 10% per annum w.e.f. 4.10.1996 i.e. the date of filing of this O.A.





(ii) The DRM(P), Sonpur shall pay interest @ 10% per annum on the amount of Rs.48,590/= w.e.f. 1.8.1993 to the date of payment within a period of three months.

There shall be no order as to costs.

  
J.M.

  
A.M.

Asthana/