

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

DATED: THE 14 TH DAY OF SEPTEMBER, 1998

CORAM : HON'BLE MR. S.L.JAIN

O.A.No. 775 of 1996

L.P.Jha aged about 68 years
son of Shri N.R.Jha,
resident of 145 Nai Basti, Jhansi.

.... Applicant

C/A Shri R.K.Nigam, Advocate.

Versus

1. Union of India through General Manager.
2. Central Railway, Mumbai CST.

2. Chief Workshop Engineer, Central Railway,
Mumbai CST.

3. Chief Workshop Manager, Central Railway,
Jhansi.

.... Respondents

C/R Shri Prashan Mathur, Advocate

ORDER

BY HON'BLE MR. S.L.JAIN, J.M.-

This is an application u/s 19 of the Administrative Tribunals Act 1985 for issue of order/direction in the nature of mandamus commanding the respondents to release the gratuity and commuted value of pension as admissible with interest at the rate of 12% compound yearly.

S.L.J.

2. There is no dispute between the parties in respect of the facts that the applicant was Personnel Inspector in grade of Rs.425/- - 640/-. He was involved in a case u/s 332 read with section 34 I.P.C., Case No.768/87 State v. Vijai Bahadur Singh was lodged which ended in acquittal on 29th Sept., 1981, appeal against the acquittal was registered as 47/82 State v. L.P.Jha which was dismissed on 8.9.95. Disciplinary proceedings against the applicant was simultaneously launched which was dropped on 17.7.97 after the judgment of the Hon'ble Court in Criminal Appeal No.47/82 State v. L.P.Jha. The applicant submitted a representation dated 16.10.95 followed by the reminders dated 12.1.96, 22.1.96, 7.2.96, 22.6.96, 25.3.96 16.4.96 and 14.5.96. The respondents are ready to pay settlement dues as it is in process and will be paid to the applicant.

3. The applicant's case, in brief, is that once a person is acquitted in a criminal case, ⁱⁿ ~~an~~ departmental proceedings [✓] on the same charges and allegations do not survive. After lapse of 19 years ^{the do in} ~~a~~ show called charge-sheet, the proceedings therein comes to an end as soon as the State appeal stands decided by the Hon'ble High Court. The applicant is entitled to interest @ 18% per annum on the entire amount of gratuity and commutation of pension in view of Railway Board Circular dated 31.1.95. Hence this application.

4. The respondents, as stated above, have stated in their counter that since the payment of settlement dues is in process, it will be paid to the applicant. They have denied rest of the allegations and prayed for dismissal of the O.A. as infructuous.

J.C. D.

5. Criminal proceedings and departmental proceedings are not the same one and even after an acquittal in criminal proceedings the disciplinary action can be taken against the delinquent if he is found guilty in disciplinary proceedings.

6. It is the entire decision of the disciplinary authority to drop the proceedings or to continue the same even after acquittal in the criminal appeal decided by the Hon'ble High Court, All-ahabad on 8.9.95.

7. On 17th July 1997 the disciplinary proceedings were withdrawn. The applicant whose retirement benefits were with held, is entitled to get his matter decided within three months in view of Annexure A6 No.REO/66 dated 31.1.95. Even after decision of the disciplinary authority on 17th July 1995 and filing of C.A. at the fag-end of July 1997 no retirement benefits were paid to the applicant; if ^{counted} contact from 17.7.97 it ought to have been paid by 17.10.97.

8. Annexure A-6 reference No.REO/66 dated 31.1.95 makes it clear that in case of failure to pay the D.C.R.G. interest @ 12% per annum compounded annually will be paid to the employee.

9. In the result it is hereby ordered that the applicant is entitled an interest @ 12% per annum compounded annually on D.C.R.G. from 17.10.97 till the date of payment.

10. The applicant has also claimed interest on commuted value of pension. In my opinion, no such interest can be allowed on the same for the reason that commuted

pension^{is} ~~revived~~ after a particular period and if there is delayed payment the delay is being compensated by revival thereafter.

11. In the result, application is allowed and the respondents are ordered to pay to the applicant to^h release the gratuity amount and commuted value of pension as admissible to the applicant plus interest @ 12% compounded yearly ^{on} ~~and~~ the gratuity amount from 17.10.97 till the date of payment. In case gratuity amount and commuted value of pension has been paid earlier then interest to that date of payment of gratuity amount is payable within one month of this order. The respondents are further ordered to pay cost of this petition, as the application succeeds Rs.650/- to the applicant, (Rs.500/- as an advocate's fee and Rs.150 as other^h expenses) within one month from the date of order.

P. A. Dhillon
MEMBER (J)

Gc