

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 27TH DAY OF JUNE, 2000

Original Application No. 195 of 1998

CORAM:

HON.MR.S.BISWAS, MEMBER(A)

Rafi Uddin, aged about 78 years,
S/o late Shri minhazuddin,
R/o 125/66 E, Ram nagar, Nai basti,
Naini, Allahabad.

.... Applicant

(By Adv: Shri Rakesh Verma)

Versus

1. Union of India through the
General manager, Northern Railway,
Baroda House, New Delhi.
2. The Divisional Railway manager,
Northern railway, Lucknow.

.... Respondents

(By Adv: Shri A.K.Gaur)

O R D E R(Oral)

(By Hon.Mr.S.Biswas, Member(A))

Shri Rakesh verma learned counsel for the applicant. Shri A.K.Gaur learned counsel for the respondents. Heard counsel on both sides.

The ^{projection made by} ~~presumption~~ of the counsels is that the issue relating to 75% of running allowance is part of basic pay was decided by the Hon'ble Supreme Court on 25.7.97. The applicant's case was that he had retired on 31.12.1977 i.e prior to the impugned notification dated 5.12.1988 which was declared as illegal, first by the Full bench and later on confirmed by the Hon'ble Supreme court.

The learned counsel for the respondents has submitted in para 7 to 9 of the short C.A that the benefits arising out of the order of the Apex court has been fully granted and disbursed to the applicant. The question of eligibility of leave encashment benefit as part of pensionary benefit was also raised by the counsel for the applicant. He has also demanded

that the applicant is eligible to 123 interest 7.07% per annum on the amount of Rs. 2.14.1997.

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that the applicant is eligible to 18% interest atleast on the delayed disbursement of pensionary benefit from 25.7.97 till the date of payment i.e. 2.11.99.

The learned counsel for the respondents has mentioned that this issue of interest was not raised before the Hon'ble Supreme court and the D.B. As regards payment of leave encashment benefit the OA is totally silent, hence it is not eligible ^{for direction in this OA} besides the Railway servants Pension Rules 1993 has clarified that pension as well as pensionary benefits do not include leave encashment benefit.

I have considered the point and the pleadings.

As regards delayed payment of pensionary benefit from the date of Hon'ble Supreme Court's order dated 25.7.97 till 2.11.99 it is a fact that this issue was not included in the order of the Hon'ble Supreme court. However, the OA had specifically sought a relief of interest payment. As regards leave encashment it is seen that no such mention was made in the petition as well as in the relief. besides the same is not one of the defined part of retirement benefit.

Considering the forgoing ^{this} court orders that a payment of 11% interest is made to the incumbent from 25.7.97 till 2.11.99 which is reasonable " and not excessive". For payment of leave encashment benefits the respondents should immediately entertain ^{their} the representation and decide it on merits.

The OA is disposed of ^{with} on the above directions. ^{no cost}

S. B. Singh
MEMBER(A)

Uv/