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Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,  
ALLAHABAD.

original Application No. 1472 of 2001.

this the 2nd day of December 2002.

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Suraj prasad, S/o Sri Harihar prasad, R/o Hanuman Mandir  
crossing, C.C. Road, Deoria.

Applicant.

By Advocate : S/Sri S.K. Dey and S.K. Misra.

Versus.

1. Union of India through the General Manager, E. Rly.,  
Calcutta.
2. The Chief Administrative Officer, E. Railway,  
Calcutta.
3. The Financial Advisor and Chief Accounts Officer,  
E. Railway, Calcutta.

Respondents.

By Advocate : Sri K.P. Singh.

ORDER (ORAL).

By this O.A., the applicant has sought the following  
relief(s).

"That this Hon'ble Court may be pleased to direct  
the respondent to make payment of the due amount of  
provident Fund amounting Rs.38706/- alongwith due  
interest up to date of payment.

That the respondent be directed to make payment due  
interest at the rate of 18% per annum against paid  
amount of DCRG Rs.64465/- dated 21.1.2000, leave  
salary and packing allowance Rs.65370/- dated 16.12.98  
and medical card along with due medical expenses  
amounting to Rs. 10000/- from 1994 to upto date.

Any other relief or reliefs to which he is entitled  
may also be awarded to him."

2. The brief facts as stated by the applicant are that  
he retired as Divisional Engineer (C) on 30.11.1994, but  
was not paid the full P.F. amount, which was due to him

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and was only paid an amount of Rs. 239542/- on 2.12.1994. However, when the applicant took-up the matter with the authorities explaining them that P.F. amount arrived at by the respondents is not <sup>B</sup>the correct figure and he is deposited entitled to more amount as <sup>for R</sup>the subscription amount / from the year 1961 to 1968, he was allotted a different P.F. number, which was later changed and from the year 1969 to 1994 a different P.F. number was given <sup>Herefore in all R</sup> and in order to probabilities, the amount for the said period from the year 1961 to 1968 was not checked up by the respondents and not included in the total balance of the P.F. amount. Finally, the respondents released an amount of Rs. 13065/- on 14.7.1997 i.e. after three years of the retirement of the applicant and according to the applicant, he is still to be paid the rest amount of Rs. 38706/- more on account of his P.F. amount. The applicant has stated that he gave a number of representations highlighting these facts, but the respondents have not given any reply to him till date. He has also submitted that even though the Enquiry Officer gave his findings as back as in the year 1993 holding therein that the charges against the applicant is not proved, yet the respondents took their own time in passing the final order and vide order dated 13.12.98 the respondents only communicated ~~the~~ displeasure of the Government to the applicant, but still the DCRG was not released and he was paid the DCRG only on 21.1.2000. Thus, the applicant has prayed that he should be given interest on the delayed payment of DCRG and second instalment of P.F. as well as an amount of Rs. 38706/-, which according to him, is left over on account of P.F. The applicant has also submitted that even though at the time of his retirement, his one month basic pay was withheld from the DCRG in the year 1994 itself, yet he was not given the medical card which he was entitled to. Thus, he has to ~~spend~~ money on his medical treatment from his pocket. Accordingly, he has claimed that the medical expenditure

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amounting to Rs. 10000/- from 1994 to upto date may be reimbursed.

3. The respondents have opposed the O.A. and have stated that a vigilance case was pending against the applicant, which was finally decided on 13.12.1998 and the applicant had been communicated the displeasure of the Government. Therefore, all his settlement dues were processed and his D.C.R.G. was also released on 21.1.2000. They have further submitted that due to change in P.F. account number, an amount of Rs. 13065/- was paid later to the applicant, as it took some time to verify the various documents and his service record etc. They have submitted that this was not a deliberate attempt on the part of the respondents to delay the payment, but the same ~~was~~ occurred due to bonafide mistake and also ~~is~~ due to change in P.F. account number. Thus, according to the respondents whatever amount was due to him, had already been paid and the applicant is not entitled ~~to~~ B any relief as claimed by him. With regard to medical card, the respondents have stated that even though one month basic pay was deducted at the time of his retirement, but the case was not finalised and was still pending and it was only after displeasure issued to the applicant, when his settlement dues were processed, the case was finally decided and since he became a member of RELHS after 1.1.1996, he was required to deposit an amount of Rs.3750/- as per CPO letter number 5/2000.

4. I have heard both the parties and perused the pleadings as well.

5. Admittedly, the applicant superannuated on 30.11.1994 and he should have been given the P.F. amount within a stipulated period of time. He was given an amount of Rs. 239542/- on 2.12.94, therefore, no interest is payable on that amount. However, an amount of Rs.

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Rs.13065/- was paid to the applicant only on 14.7.97 i.e. after more than two and half years. It goes without saying that if the said amount had been paid to the applicant immediately after his retirement, he would have invested the said amount and gained some interest from the Bank. The change in P.F. account number cannot be attributed to the applicant as the P.F. amount was deducted by the respondents and the account was also maintained by them. <sup>to say</sup> It is not correct that the applicant had requested the authorities to change his P.F. account number. He has annexed a letter dated 18.1.1993 with his Rejoinder at page 9, whereby he had given all the details and had requested the authorities to change his P.F. account number and carry-out the necessary corrections in his service book. The said letter is not disputed by the respondents. <sup>cast</sup> Therefore, the duty was ~~cast~~ on the respondents to carry the necessary corrections in the applicant's service book or records, so that ~~he~~ could be given his full amount on retirement, which was due on 30.11.1994. Since the applicant had taken precaution and it was the duty of the respondents, I am of the considered view that the applicant would be entitled to get interest on the amount of Rs. 13065/- @ 9% per annum from 2.12.94 till the actual payment was made to him.

6. As far as the claim of Rs.38706/- on account of his P.F. amount <sup>is concerned</sup> it is seen that the applicant had given a number of representations to the respondents, which are annexed with the O.A., ~~but the~~ special mention is being made to page 25, which was given on 29.7.99 wherein the applicant had specifically stated that he has yet to be paid an amount of Rs.38706/- on account of P.F., but no reply has been given to the applicant on the said representation. Admittedly, there were two P.F. account numbers of the applicant i.e. from the year 1961 to 1968 his P.F. was being deducted and deposited in a different

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account number and from the year 1969 to 1994 the same was deposited in a different account number, so naturally the respondents ought to have applied their mind to these facts which are brought to their notice before passing any order. It is the duty of the respondents that they should have passed a reasoned and detailed order giving the break-up to the applicant as to how they have arrived at the amount of Rs. 13065/- in the year 1997 and how it was calculated for which period. Since no such details have been given to the applicant till date, the respondents are directed to apply their mind to this aspect of the matter and then pass a detailed and reasoned order as to how they have arrived at the figure of Rs. 13065/- in the year 1997 and for which period.

7. As far as the DCRG is concerned, the respondents have stated that as a vigilance case was pending against the applicant, the respondents could not have released the DCRG. The applicant has drawn my attention to the findings given by the Enquiry Officer, which was given as back as on 27.10.93 holding therein that the charges against the applicant is not proved. However, the final order communicating displeasure was issued only on 13.12.98. The said order has not been challenged by the applicant, therefore, till the final order was passed by the authorities against the applicant, the applicant would not be entitled to any interest. Till such time, even though this would amount to inordinate delay in deciding the matter, whether after 31.12.98 there was any justification what-so-ever for the respondents for not releasing the DCRG in favour of the applicant. I find that there is no such justification. Once the respondents have issued an order communicating only displeasure to the applicant, they could not have withheld the DCRG any longer and the same should have been issued to the applicant immediately.

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thereafter. Accordingly, I am of the considered view that from March '99 the applicant would become entitled to interest @ 9% per annum on the amount of DCRG also till the actual payment was made on 21.1.2000.

8. As far as the claim made by the applicant with regard to his medical expenditure is concerned, the applicant has not brought on record any bill which he had incurred or raised with the respondents, therefore, he would not be entitled to any amount on account of medical expenses. It is also seen that at the time of the retirement of the applicant, an amount of Rs. 3750/- was already deducted from the DCRG of the applicant for RELHS (Annexure-6). Therefore, it is not understood as to how the respondents are saying that the applicant has become a member of RELHS after 1.1.96. The service certificate issued on 8.10.94 clearly states that one basic pay of Rs.3750/- has been deducted from the DCRG bill for RELHS. Accordingly the applicant would be entitled to get the medical card issued atleast now without making any further payment because there is a noting of their own officer at the time of his superannuation as back as on 8.10.94.

9. In view of the aforesaid discussions, the respondents are directed to calculate the interest on DCRG as well as PF paid after delay as mentioned above within a period of four months from the date of receipt of copy of this order and to make payment also within ~~the~~ <sup>above</sup> stipulated period of time. The respondents are also directed to pass a speaking order with regard to his claim for an amount of Rs. 38706/-, which according to the applicant is still left over on account of his PF. This exercise shall also be completed within the aforesaid period.

10. With the above directions, the O.A. is partly allowed with no order as to costs.

GIRISH/-

MEMBER (J)