

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
THIS THE 8th DAY OF JUNE, 2007
Original Application No.257 of 2004**

CORAM

HON.MR.JUSTICE KHEM KARAN, V.C.

1. S.L.Mahavar (Died During pendency of OA)
2. Smt.Shanti devi, W/o Late S.L. Mahavar
3. Jitendra Kumar Mahavar
4. Kamal Kishore Mahavar
5. Amit Kumar Mahavar
6. Sanjeev Kumar Mahavar(All Sons of Late S.L. Mahavar)
7. Rajni mahavar
8. Jaya Mahavar(Both are daughters of Late S.L. Mahavar)
All residents of 848 Nainagarh, Nagra
Jhansi (UP)

.. Applicants

(By Adv: Shri A.K. Gupta)

Versus

1. Union of India through General Manager,
Central Railway, Mumbai C.S.T.
2. General manager, Western Central
Railway, Allahabad.
3. Additional general manager,
Central Railway, Mumbai
4. F.A.&C.A.O, Central Railway
C.S.T.
5. F.A. & CAO West Central Railway
Jabalpur.
6. Divisional Accounts Officer,
West Central railway, Jabalpur.

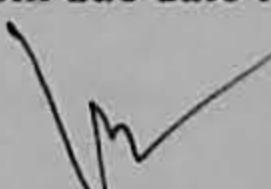
.. Respondents

(By Adv: Shri K.P.Singh)

O R D E R

By Justice Khem Karan, V.C.

This OA was filed by Late Shri S.L. Mahavar, who superannuated from the service of respondents, in the afternoon of 30.6.1996, for directing the respondents to (a) pay to him Rs 13920/- more under the head of commuted value of pension together with interest @ Rs.12% per annum (b) pay to him Rs.4704/- not paid even after admission and (c) pay interest @ Rs.12% per annum from due date to 30.3.2000,



on the part of the amount of gratuity, which the respondents wrongfully withheld for unduly long period.

2. As regards the amount of Rs.13,920/-, his contention is that had the respondents calculated commuted value of pension, by applying the formula applicable to an employee of 58 years (Rs.1078) in place of formula applicable to a person of 59 years (Rs.10.46), the amount payable under the said head, would have been increased by Rs.13,920/- ~~In so far as the claim~~. In so far as the claim for amount of Rs.4704/- is concerned, he states in para 4.3 of O.A. ⁴ That on revision of pension, an additional amount of Rs.31380/- was to be paid, as is clear from letter dated 4.6.98 (A-2 and A3) of D.R.M.(P), but as against it, he was paid only Rs.26676/- and so he is entitled to difference amount of Rs.4704/-, which the respondents have not paid. As regards the claim for interest on part of the amount of gratuity, he alleges in para 4.7 that on revision of pension etc, he was to be paid an amount of Rs.72682/- as per Railway Board's letter dated 5.11.1997 but the same could be paid as late as on 12.9.98, so he is entitled to interest @ 12% per annum from 6.2.98 to 11.9.98. He says in para 4.8 that an amount of Rs.23814/- as wrongfully withheld from the amount payable as gratuity, which could be paid to him as late as on 31.3.2000.

3. It appears from perusal of impugned letter dated 17.10.2002, that the applicant's representation in respect of the above claims has been rejected. It is stated in it that as per Rule 7(1) (II) read with Rule 9, of the Pension Rules, commuted value of pension becomes absolute on the date following the date of retirement and so table applicable to employee of 59 years was correctly applied for calculating the amount of commuted value of pension. As regards the claim for interest as delayed payment of difference amount of gratuity, they have tried to say matter processed with all possible dispatch. As regards the deduction of an amount of Rs.23,814/- the amount of DCRG, they say the applicant had himself requested so vide his letter dated 31.3.1998, late payment of Rs.1500/- has also been explained in this letter.

4. In their reply, the respondents have said that O.A. is time barred and the claims have rightly been rejected for reasons disclosed in letter dated 17.10.2000

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5. On death of original applicant his legal representatives have been substituted.

I have heard the parties counsel and have perused the record.

6. The first question to be considered is as to whether commuted value of pension, was to be calculated, by applying the table applicable to a person of 58 years as alleged by the applicants or by applying the table applicable to a person of 59, as has been done by the respondents. Applicants date of birth was 1st of July. In normal course, he was to retire on 1.7.1996 but under the Rules as contained in Rule 1801 of Indian Railway Establishment Code, he retired on 30.6.1996. In terms of Rules 7(1) (II) read with Rule 27(7), 29(5) or 30 (1) (2) of the Pension Rules, the commuted value of pension would become absolute on the date following the date of retirement of the applicant. According to the applicant 1.7.1996 was the date following his retirement on 30.6.1996, so table, applicable to a person of 58, ought to have been applied but the contention of the respondents is that actual date of retirement was 1.7.1996, so table applicable to a person of 59 was correctly applied. I am of the view that applicant's contention is correct and reasonable. It is a fact that applicant was retired on 30.6.96 and the date following it was 1.7.1996. On 1.7.1996, the applicant was 58 and not 59. So, I am of the view that the respondents erred in applying the table applicable to a person of 59. They ought to have calculated the commuted value by applying the table, applicable to an employee of 58 and in that case the amount would have increased. So the respondents have to be directed to recalculate commuted value of pension, by applying formula, applicable to a person of 58, and pay the difference with interest thereon (a) 12% per annum.

7. In so far as the claim for interest on delayed payment of gratuity, I am of the view, that he is entitled to it. Amount of Rs.72,682/- was to be paid within three months from 5.11.1997. It appears, after deducting amount of Rs.23814/-, the rest was paid to him on 12.9.98. No good reasons have been shown for inordinate delay. Reasons given in impugned letter dated 17.10.2002, are far from satisfactory. I think the applicant is entitled to interest @ 12% per annum, from 6.2.98 to 11.9.98 on the amount of Rs.72682/- . It is stated in the impugned letter that amount of Rs.23814/- was withheld, in the circumstances mentioned therein, as per request

dated 31.3.98 of the applicant.. The applicant has not refuted the fact that that he wrote letter dated 31.3.98, in connection with the above. So, I am of the view that the applicant is not entitled to interest on this amount of Rs.23814/- from 12.9.98 to 30.3.2000.

8. The respondents have not explained in the letter dated 17.10.2002 or in the reply, as to what they say in the context of claim for Rs.4704/- with interest. The applicant says that according to the respondents own admission, he was entitled to this amount, in addition to what was paid towards commuted value of pension. As the respondents keep mum as regards the claim, it has to be allowed with interest @ 12% per annum. The O.A. is not time barred, as period of the year referred to in Sec. 21 of the Act of 1985, will start from the date of communication of letter dated 17.10.02.

10. The respondents appear to have satisfactorily explained the position with regard to the amount of Rs.1500/- referred to in para 4.8 of O.A. Moreover, no specific relief is there in respect of it not it appears to be of much consequence.

11. In the result, the O.A. is disposed with a direction to the respondents, to ensure:

- (a) that amount of commuted value of pension payable to Shri Mahavar is recalculated by applying formula applicable to an employee of 58 years, and the difference if any, is paid to the present applicants with interest @ 12% per annum, from the date this value was payable to the date of actual payment.
- (b) that amount of Rs.4704/- is further paid to him together with interest @ 12% per annum, from the date commuted value of pension became payable to the date of actual payment.
- (c) that interest @ 12% per annum from 6.2.98 to 11.9.98 on delayed payment of Rs.72682/- towards gratuity is paid to the applicants.

The above shall be done within a period of three months from the date a certified copy of this order is produced before them. To the extent indicated above, the impugned letter dated 17.10.2002 will stand quashed. No order as to costs.

30-6-07
VICE CHAIRMAN

Dated: 8th June, 2007

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