

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD**

ORIGINAL APPLICATION NO.471 of 2004

Allahabad, this the 4th day of April, 2008

Hon'ble Mr. Justice Khem Karan, Vice-Chairman

Vidyadhar Son of Late Shri Vasudeo Rai,
Resident of Daudpur, District Gorakhpur,
Retired Senior Accounts Officer,
N.E. Railway, Gorakhpur.

...Applicant.

(By Advocate : Shri O.P. Gupta)

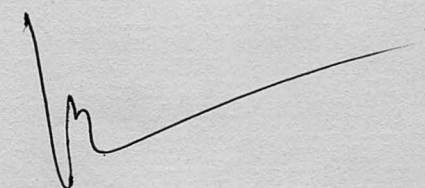
Versus

1. Union of India, through Deputy Secretary
(D), Railway Board Rail bhawan, New Delhi.
2. General Manager, N.E. Railway, Gorakhpur.
3. Dy. F. & C.A.O./G., N.E. Railway, Gorakhpur.

(By Advocate : Smt. Shikha Singh)

ORDER

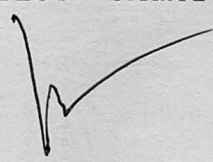
The applicant ~~was~~ superannuated on 31.8.1987 from the service of the respondents. He applied for getting the commuted value of the pension and the amounts of that commutation could be released to him in 1991, after the pending disciplinary proceedings in his favour in 1998. He says that on expiry of a period of 15 years from the date of retirement his full pension ought to have been restored on 1.9.2002, but the same could be restored in 2006. He has prayed for quashing the order dated 26/27.3.2003 and order dated 5.1.2004 (Annexure-A-1 & A-2) and for commanding the respondents to restore the full pension w.e.f. 1.9.2002, and pay arrears together with the interest @ Rs.18% per annum. It has also been prayed that the respondents be asked to pay the interest ~~on~~ the delayed payment of the retiral benefits. 4



2. According to the respondents the restoration of the full pension has rightly been effected in 2006, on expiry of 15 years from the date commuted value of the pension, was paid to the applicant. They say that the applicant is not entitled to any interest on delayed payment or other pensionary benefits, as the same were withheld as per rules, owing to the pendency of the disciplinary proceedings.

3. I have heard Shri O.P. Gupra, appearing for the applicant and Smt. Shikha Singh for the respondents.

4. Learned counsel for the applicant has argued on the basis of Office Memorandum dated 5.3.1987 that as per rules applicable to the case, in hand, full pension is to be restored on expiry of period of 15 years from the date of retirement. He says that this memo dated 5.3.1987 has been issued in clarification to the relevant rules referred to therein. On the other hand, learned counsel for respondents has, argued that according to proviso (a) & (b) to Rule 7(i) of the Railway Service (Commutation of Pension) Rules 1993, the period of 15 years is to be reckoned from the date the pension was so reduced. I am of the view, that these Rules of 1993 can not ^{be} applied to the case of the applicant as he retired at a time, when the matter relating to commutation etc. was governed by the old Rules, as referred in the Office Memorandum dated 5.3.1987 and as commuted value was also paid to the applicant before these Rules of 1993. Learned counsel for the respondents has not disputed the existence of ^{an} authenticity of Office Memorandum dated 5.3.1987, which is being relied upon by counsel for the applicant. It provides that commuted portion is to be restored on expiry of period of 15 years from the date of retirement. Learned counsel for the respondents has drawn attention of the Tribunal towards Para-3 of the Office Memorandum dated



22.8.1990 (Annexure-CA-3), which says that full pension is to be restored on expiry of period of 15 years from the date of reduction.

5. I have carefully gone to it and I think the case, in hand, is not to be regulated by this subsequent order but by Memorandum dated 1987, which clearly ^{provides} ~~says~~ that period of 15 years is to be reckoned from the date of retirement.

6. In so far as the question relating to interest on delayed payment of retiral benefit is concerned, I think, after the applicant was exonerated in the departmental proceedings, he is to be paid interest and in my view the rate of interest should be @ 12% per annum.

7. So, the impugned orders dated 26/27.3.2003 and 5.1.2004 are quashed and the respondents are directed to restore the full pension of the applicant w.e.f. 1.9.2002 and pay arrears, if any, to him alongwith interest on delayed payment of Rs.77697/- and on delayed payment of other retiral dues @ Rs.12% per annum from the due dates to the date of actual payment. No costs.

/ C. J. J. a
04.4.08

Vice-Chairman

RKM/