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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH, ALLAHABAD

Original Application No.99 of 2004

Allahabad, this the 3rd day of December, 2004

Hon'ble Shri M.P.Singh - Vice Chairman
Hon'ble Shri A.K.Bhatnagar- Judicial Member

Uma Shanker Mishra (Ex Carriage Khalasi),
S/o late Ram Raj, R/o Village Alawalpur
Chak Farid, Post Office Rohani via Urua Bazar,
District Gorakhpur - APPLICANT

(By Advocate - Applicant in person)

Versus

1. The Union of India through General Manager,
N.F.Railway, Maligaun, Gohati, Assam.
2. The Chairman, Railway Board, New Delhi.
3. The Divisional Railway Manager, N.F.Railway
Katihar (Bihar).
4. The Divisional Finance Manager, N.F.Railway,
N.F.Railway, Katihar (Bihar).
5. The Manager, State Bank of India, Sikriganj
Branch, District Gorakhpur, Uttar Pradesh- RESPONDENTS

(By Advocate- Shri K.P.Singh)

O R D E R

By M.P.Singh, Vice Chairman -

By filing this Original Application, the applicant
has sought the following main reliefs:-

"(A)...to issue a suitable order or direction commanding to the respondents to calculate the pension of applicant according to the Railway Board's letters issued from to time as mentioned in paragraph no.4 of the representation dated 16.01.2002 and to pay arrear of applicant from 1st July 1983 @ Rs.326-22 = Rs.304/- per month plus DA/Interim relief issued/enhanced from time to time by the Railway Board's letters upto December 1985 along with 18% penal interest.

(B) issue further suitable order or direction commanding to the respondents to pay arrears of pension from 1st January 1986 @ Rs.375/- + DA plus interim reliefs issued by the Railway Board's letters and enhanced pension, DA plus reliefs upto 31st December 1995 along with 18% panel interest.

(D) issue a suitable order or direction commanding to the respondents to pay reasonable compensatory cost to the applicant occurred due to negligence of the respondents".

2. The brief facts of the case are that the applicant is an Ex Carriage Khalasi, who was working under respondee no.3 and retired on 30.6.1983 after attaining the age of superannuation and as such became entitled for payment
- M.P.

of pension by the respondents w.e.f. 1.7.1983. He commuted his pension to the tune of Rs.22/- for a period of 15 years. The applicant has contended that he is entitled to receive the pension as per the order dated 5.11.2003 (Annexure-A-8) which is reproduced below-

"In reference to Rly.Boards L/No.PC III-82/DA/1 dt.23/9/83 the actual relief admissible w.e.f.01/7/83 is 109. 109.5% of Basic pension subject to a minimum of Rs.35.00 plus 92% of Basic pension and maximum of Rs.326.00.

Further as Basic pension of Sri Uma Sankar Missir Ex-C/Khalasi was Rs.66.00 as on 01/7/83 the total amount of pension will be calculated as mentioned below:-

Example:- (A) Basic Pension + (66.00 x 109.5%)
= 66.00 + 72.27 = 139.00

(B) Basic Pension + (66.00 x 92%) + 35.00
= 66.00 + 60.72 + 35.00
= 162.00

Now from A & B the actual amount of pension payable will be B i.e. Rs.162.00 as it is more than calculated A, as on 01/7/83 to 31/7/83 and similarly w.e.f. 01/8/83 to 31/12/85 the actual payment of pension should be calculated as per relief chart enclosed. Also Rs.22.00 (Twenty two only) the commuted amount of pension will be deducted from the actual amount of pension payable to Sri Uma Sankar Missir i.e.(162.00-22.00) w.e.f. the actual date of payment of commuted value upto 15 years.

As per IVth CPC the revised Basic pension will be Rs.375.00 (Rs.Three hundred seventy five only) w.e.f. 01/1/86 to 31/12/85 and as per Vth CPC the revised B/pension will be Rs.1275.00 w.e.f. 01.1.96 with relief as admissible from time to time.

Hence necessary action is requested from your end to avoid financial hardship to Sri Missir".

The applicant has submitted that the actual payment of pension has not been paid to him by the respondents. He had moved a series of representations to the respondents for payment of actual pension. Thereafter, he had preferred a writ petition before the Hon'ble High Court of Judicature at Allahabad for payment of actual pension, which was disposed of vide order dated 7.2.2001 (Annexure-A-4). In compliance to the order dated 7.2.2001, the applicant preferred a representation on 16.1.2002 but no action has been taken by the respondents. Thereafter, the applicant filed a second writ petition no.44014/2003 before the Hon'ble High Court, Allahabad, which has been dismissed vide order dated 29.9.2003 on the ground that the remedy of the applicant was to move a contempt petition. Thereafter, the applicant again approached the

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respondents, and the respondents have passed the aforesaid order dated 5.11.2003. Thereafter, a letter has been issued from State Bank of India, Sikriganj Branch on 17.12.2003 (Annexure-A-10) stating therein that the payment of pension of the applicant with reference to letter dated 5.11.2003 has been made as per his entitlement. The applicant has alleged that he has received only a sum of Rs.1054/- in his account on 17.12.2003 and the Bank has not paid the actual payment which is due to him as per rules. Hence, this O.A.

3. The respondents in their reply have submitted that the applicant ^{an} Ex-Khalasi/Helper of Katihar Division, retired on attaining the age of superannuation from Railway service on 30.6.1983. His pension was fixed @ Rs.150/- per month vide PPO No.KIR/PN/3170. Again after implementation of the report of the 5th Pay Commission, the pension of the applicant was revised to Rs.375/- per month w.e.f. 1.1.1986 and Rs.1275/- w.e.f. 1.1.1996. The order of revised pension was sent to State Bank of India, Gorakhpur Main Branch, Gorakhpur. The Bank concerned has already been advised to make payment of ^{earnings} relief as increased from time to time by the Pension Payment Order itself. The respondents have further submitted that the case of the applicant was examined and a letter dated 5.11.2003 was issued to the Manager State Bank of India, Sikriganj Branch, Gorakhpur by which factual position was apprised. The respondents have further submitted that the liability of the payment lies on the Bank concerned as Railways have already advised for payment, and whether the payment has been made or not by the concerned Bank is not known to them. In view of the aforesaid facts, the respondents have submitted that the present OA is liable to be dismissed.

4. We have hearded both the parties. During the course of arguments, the applicant, who was present in person, has submitted that he has given ^a number of

representations to the railway administration as well as to the Bank authorities but his case still remains unsettled by them as the payments due to him have not yet been ^{made} paid to him. According to him, the Railway administration have already issued instructions to the concerned Bank but the Bank has refused to make the payment till date. He has further submitted that he is moving from pillar to posts but there is no result. Therefore, he has prayed that a direction be given to the respondents to make payment of his dues i.e. pension as well as dearness reliefs thereon with interest.

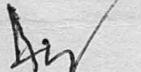
5. On the other hand, the learned counsel for the respondents has submitted that as far as the railways is concerned, they have already issued instructions to the Bank authorities to make payment of the pension claimed by the applicant as well as interim relief thereon. It is now the duty of the Bank to make payment of the amount due to the applicant, and the respondents are not aware as to whether the actual payment has been made to the applicant or not.

6. We have given careful consideration to the arguments advanced on behalf of both the sides. We find that the minimum pension of the applicant has been fixed by the respondents w.e.f. 1.1.1986 as well as from 1.1.1996 on the recommendations of the 4th CPC and 5th CPC respectively and they have also authorised the concerned Bank to make the payment of the pension amount as well as the dearness relief on pension granted from time to time by the Government. The respondents have, however, admitted ^{aware as to whether} that they are not/ the amount which was due to the applicant has been paid or not. It is a settled law that right to receive pension is 'property' and grant of pension is not a bounty, but is a vested and valuable right, and denial of pension affects fundamental rights. The right to pension is a valuable right and it accrues as soon as a Government servant retires from service (See. Shri Jeena

bhai Bavabhai Patel Vs. Union of India & ors. 1990(3)SLJ (CAT)167. Therefore, the respondent-railway authorities are not doing any favour by issuing the PPO and issuing any instructions to the Bank authorities for making payment of the amount due to the applicant. It is their bounden duty to make payment of pension and dearness relief to the applicant and they are also duty bound to see as to why the amount which is due to the applicant is not being paid to him and take up the matter at the appropriate level with the Bank authorities. The applicant has retired from the railways about 21 years ago and has attained the age of about 80 years and at the fag end of his life he cannot be expected to move from pillar to posts without any result.

7. Keeping in view the above facts and circumstances of the case, the respondent-railway authorities are directed to make the payment of all retiral dues i.e. pension as well as dearness relief granted by the Government from time to time to the applicant at the earliest and in any case within a period of two months from the date of communication of this order along with interest ^{at the rate of} 10 (ten) per cent per annum from the date it was due to the applicant to the date of actual payment.

8. In the result, the O.A. is disposed of with the above directions. No costs.


(A.K. Bhatnagar)
Judicial Member


(M.P. Singh)
Vice Chairman