

(5) (v)

Central Administrative Tribunal, Allahabad Bench

ALLAHABAD

O.A.No. 385/88

D.C.Pachauri.....

.....Applicant

versus

Union of India and others.

.....Respondents.

Hon'ble Mr. Justice U.C.Srivastava, V.C.

( By Hon'ble Mr. Justice U.C.Srivastava, V.C.)

The applicant was in service as Station Master and he was placed under suspension vide order dated 3.9.1975 for certain alleged acts of commissions and commissions and the disciplinary proceedings ended against him and he was removed from service vide order dated 24.9.77. The departmental appeal filed by him was also dismissed on 20.4.1981. He filed a writ petition which was allowed vide order dated 14.10.85 and the removal order was quashed with the observations that "he shall be deemed to have continued in service and retired from service on 30.6.77. He shall also be entitled to such benefits as are available to a retired employee." After the removal of the applicant from service and during the pendency of the writ petition no claim was made by the applicant and as such after the application was allowed, he moved an application that his pension may be paid and gratuity may also be released and has also claimed that Rs. 534.40 has been wrongly deducted over the amount which have not been paid. He claimed for the cost of Rs. 128/- awarded by the High Court.

2. The respondents have opposed the application and stated that the Tribunal cannot be a Executing Court as the High Court and so far as the cost is concerned, the cost awarded by the High Court cannot be executed by this Tribunal. Regarding the interest

he has stated that the High Court allowed the application but no order regarding the interest was passed and so far as the deductions of Rs. 534.40 P. is concerned, it has been stated that the applicant did not submit any 'no dues certificate' and in this view of the matter the order of the Senior Divisional Superintendent this amount was detained towards the commercial payment and this amount will be paid on production of no dues certificate. As far as the other representation of the applicant in this behalf is concerned, the same is not ~~maintainable~~ <sup>available</sup>, may it be that it never reached the addressee. The contention raised on behalf of the Administration that as far as the cost awarded by the High Court is concerned, the same cannot be executed by this Tribunal has got full force. This Tribunal cannot be <sup>relegated to the position of</sup> ~~reviewed as executing court~~ in respect of the cost which has been awarded by the High Court ~~and for~~ <sup>as per</sup> the execution of the cost awarded by the High Court, the provision has already been made <sup>in the</sup> ~~rules of the court~~. ~~The cost~~ <sup>and the</sup> can be executed only in accordance with ~~the~~ <sup>the</sup> same.

3. As far as the interest is concerned, the High Court in its order directed the authority that the applicant is entitled to all the benefits which are admissible to a retired employee. A retired employee is entitled to the pensionary benefits and even if there is ~~an~~ <sup>no</sup> express provision that for the ~~intentional~~ delayed payment the retired employee <sup>also</sup> is entitled to the interest ~~on~~ the same. The High Court has not put any bar to such a right of retired employee that he <sup>regarding entitlement</sup> will not be entitled to the interest as the applicant was not <sup>in a position</sup> entitled to receive any payment till his writ petition was

not decided. The applicant is ~~not~~ entitled to ~~take~~ <sup>get</sup> interest from the back date and upto date payment and accordingly the respondents are directed to pay ~~the~~ interest @ 12% to the applicant from the date of removal order was passed up to the date of payment and this payment shall be paid within 3 months from the date of <sup>production of the</sup> ~~deductions~~ order. As far as the debit, the amount which was deducted, the same shall be paid to him with interest if within this period no dues certificate as required is produced by the applicant, ~~even if it is done earlier before the authorities concerned~~. So far as the 'no dues certificate' is concerned, the learned counsel for the applicant rightly pointed out obviously that it is matter of record and it is <sup>and executed saw is not in his hand</sup> for the respondents to do the same. From the record it appears that the applicant is entitled to the said amount and accordingly he should also pay the said amount with interest within a period of 3 months but its interest will not be paid in respect of differences of pension which the applicant became entitled to subsequently.

4. With these observations the application is disposed of accordingly.

5. No order as to the cost.

Dated: Allahabad  
31st July, 1992

L  
V.C.

(AR)