

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 17TH DAY OF JANUARY, 1996

Original Application No. 666 of 1990

HON. MR. JUSTICE B. C. SAKSENA, V. C.

HON. MR. S. DAS GUPTA, MEMBER (A)

Suresh Chandra Saxena, son of late
Sri Prem Chandra, Asstt. Engineer
(Track), M-120 Shaheed Nagar, Agra.

...Applicant

BY ADVOCATE SHRI RAVI KANT

VERSUS

1. Union of India, through the General
Manager, Western Railway, Church Gate,
Bombay.
2. The Divisional Railway Manager
Western Railway, Kota Junction (Rajasthan)

...Respondents

BY ADVOCATE SHRI AMIT STHALEKAR

O R D E R (ORAL)

JUSTICE B. C. SAKSENA, V. C.

The brief facts giving rise to this OA are that the applicant had filed an original suit no. 193/76 in the court of Civil Judge, Agra seeking a declaration that he stands promoted as Inspector of Works (I.O.W) in the grade of Rs. 450-575/- from 25.2.1970. He made a further prayer that the period from 6.11.1970 to 7.3.71 and 1.2.1973 to 17.7.73 be treated as on duty. The said suit was transferred to this Tribunal and was registered as TA 365/86. The said TA was decided by an order passed on 27.5.87. The operative part of the order reads as under:-

" we therefore, direct that the defendants

...p2

Boh

(9)
(13)

should work out in detail the various posts that the plaintiffs would have been entitled to under the protection available under the "Next Below Rule" because his juniors have been promoted. He would be entitled to be considered for promotion and will be paid the arrears arising out the denied promotions. He will also be entitled to consequential benefits, if any, over the succeeding years. The petition (Suit No.193 of 1976) is disposed of accordingly. Parties will bear their own costs."

2. Finding ^{that} ~~the~~ the order of the Tribunal had not been complied with, the applicant filed a civil misc petition No.68-1-A of 1988 purportedly under section 27 of the Administrative Tribunals Act. The said application was disposed of by an order dated 26.10.88 and the respondents were directed to take suitable action to implement the orders given by the Tribunal in judgment dated 27.5.87, if not so far done, within the period of three months from the date of order.

3. It may also be noted that earlier the applicant had filed suit no. 969/68 and this Tribunal in its judgment passed in TA 365/86 had observed that the defendants ~~were~~ were wrong in not giving the posting to the applicant so faras the period from 1.2.73 to 27.7.73 is concerned. It was held that their action in not posting him back as an I.O.W without obtaining stay of decree was illegal and cannot be sustained. The Tribunal, therefore, ordered that the applicant was liable to be paid the salary of I.O.W from the date he reported i.e. to say from 1.2.73 onwards. The applicant's case is that this period had

Bel

(14) (27)

:: 3 ::

also to be added in computing the total length of service and to be treated as on duty. The applicant in this O.A, further alleges that a bill was prepared by the respondents indicating that he was entitled a sum of Rs.30,708/- which represented the arrears of salary according to the respondents from 21.7.69 to 13.2.84. The said amount was transferred to the account of the petitioner sometimes in July 1989. The applicant claims that if simple interest @ 12% per annum is calculated on the said amount, Rs.46,835/- would be payable to the applicant by way of interest on the said amount till June 1989.

4. The further case of the applicant is that his services were illegally terminated by the respondents and the order of termination was set aside by the Central Administrative Tribunal, Jodhpur Bench. The applicant was ordered to be reinstated with all past benefits. The period during which the petitioner remained out of employment was from 26.5.74 to 5.11.76 and the total arrears of salary payable for the said period comes to Rs.18,562/- and despite clear direction the said amount has not been paid. The applicant has also indicated that if simple interest @ 12% is calculated on the aforesaid amount the total would come to Rs.29,683/- for the said period till June 1989. Through this OA, the applicant prays that the respondents be directed to pay to him interest either @ 12% per annum or the interest which would accrued to him ^{but} the money be deposited in the voluntary provident fund whichever is greater, till the date of actual payment. Thus in short, this is a petition claiming interest on the outstanding amount.

(5) (X)

:: 4 ::

5. In the counter affidavit filed on behalf of the respondents it has been indicated that the applicant had been paid a sum of Rs.30,708/- as arrears of salary from 21.7.69 to 30.2.84. Their case is that the Tribunal while allowing the TA did not award any interest to the petitioner and as such the applicant is not entitled to any interest as claimed. With regard to the claim for arrears of salary consequent to the termination order having been set aside by the Jodhpur Bench it is pleaded by the respondents if that is so it would be open to the applicant to claim arrears of salary before the Jodhpur Bench. It was, however, further pleaded that from the records it appears that nothing is due to the applicant for the period in question nor he is entitled to any interest. The respondents have also pleaded that a sum of Rs.30,708 which has been shown as the amount to which the applicant has been entitled/^{has been paid}and therefore no other amount is payable.

6. The applicant has filed a supplementary affidavit wherein he indicates that a sum of Rs.18,140/- have been paid to the applicant sometimes in July, 1992 and that represents the amount to which the applicant is entitled under the orders of the Jodhpur Bench as well as difference of grade I and III which was awardable consequent upon the order passed by the Tribunal in TA.

7. We have heard the learned counsels for the parties. Besides the amounts indicated in the OA the applicant has not quantified the sums payable to him under the order passed in the OA, ^{has}he/^{his relief}confined, as noted hereinabove, to a claim for payment of interest on the sum of Rs.30,000 and odd as also Rs.18,000 and odd which has been paid to him pursuant to the order of the Jodhpur Bench. The learned counsel for the applicant has not been able to show any

(5) (X)

:: 4 ::

5. In the counter affidavit filed on behalf of the respondents it has been indicated that the applicant had been paid a sum of Rs.30,708/- as arrears of salary from 21.7.69 to 30.2.84. Their case is that the Tribunal while allowing the TA did not award any interest to the petitioner and as such the applicant is not entitled to any interest as claimed. With regard to the claim for arrears of salary consequent to the termination order having been set aside by the Jodhpur Bench it is pleaded by the respondents if that is so it would be open to the applicant to claim arrears of salary before the Jodhpur Bench. It was, however, further pleaded that from the records it appears that nothing is due to the applicant for the period in question nor he is entitled to any interest. The respondents have also pleaded that a sum of Rs.30,708 which has been shown as the amount to which the applicant has been entitled/^{has been paid}and therefore no other amount is payable.

6. The applicant has filed a supplementary affidavit wherein he indicates that a sum of Rs.18,140/- have been paid to the applicant sometimes in July, 1992 and that represents the amount to which the applicant is entitled under the orders of the Jodhpur Bench as well as difference of grade I and III which was awardable consequent upon the order passed by the Tribunal in TA.

7. We have heard the learned counsels for the parties. Besides the amounts indicated in the OA the applicant has not quantified the sums payable to him under the order passed in the OA, ^{has}he/^{his relief}confined, as noted hereinabove, to a claim for payment of interest on the sum of Rs.30,000 and odd as also Rs.18,000 and odd which has been paid to him pursuant to the order of the Jodhpur Bench. The learned counsel for the applicant has not been able to show any

(16) (16)

:: 5 ::

Statutory provision under which his claim for interest on both the amounts can be said to be sustainable. The learned counsel urged that it is always open to this Tribunal to direct interest to be paid. This is a very broad proposition which is difficult to agree with. When the applicant's suit was taken up for consideration, he could have asked for payment of interest on the amount due. The learned counsel for the respondents submitted that such a prayer had been made ^{in the suit} but since it has not been provided for in the order passed in the TA the said relief should be taken to have been refused. As noted hereinabove, the applicant also filed an execution application. While deciding the execution application the court did not direct payment of interest on the outstanding amounts. In face of the fact that neither in the judgment in TA nor in the execution application any order for payment of interest have been passed, the applicant's claim for interest through this OA cannot be sustained. Through a subsequent OA, the applicant cannot be permitted to claim interest on the amounts calculated by the respondents in the absence of any statutory provision in that behalf. As a matter of fact, the applicant did not take any steps to get the order passed by the Jodhpur Bench implemented. The respondents have, however, paid the said amount as the applicant has indicated in his supplementary affidavit. The applicant also had not taken any steps to seek review or modification of the order passed in the TA in so far as the reliefs were granted therein. He could have through a review petition sought modification of the relief given and for addition of a claim for interest.

17 6
:: 6 ::

8. In view of the above, we find no justification for the claim made in the OA. The OA is, accordingly dismissed. No orders as to costs.

[Signature]

Member(A)

[Signature]

Vice Chairman

Dated: 17th January, 1996

Uv