

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

(A2)

Original Application No. 1292 of 1992

Allahabad this the 30th day of July 1998

Hon'ble Mr. S.K. Agrawal, Member (J)

Nav Nath Pandey, aged 60 years, S/o Late Singhasan Pandey
R/o Pandey Fulwaria, P.O. Mirzapur, Distt. Deoria (U.P.)

Applicant

Inperson

Versus

1. The Union of India through General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Railway Manager, North Eastern Railway, Varanasi.

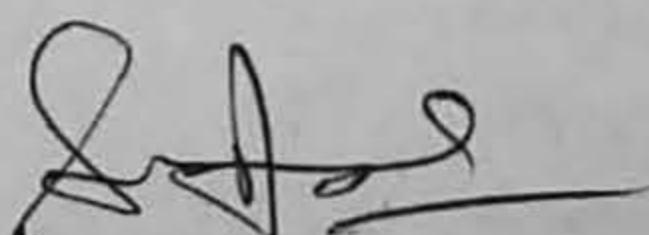
Respondents

By Advocate Shri Prashant Mathur

O R D E R

By Hon'ble Mr. S.K. Agrawal, Member (J)

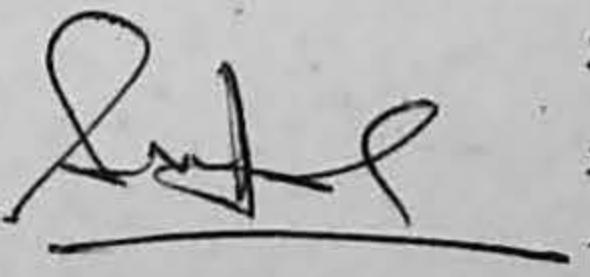
In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant prays to direct the respondents to pay;



- i) full payment of wages for suspension period from 13.8.77 to 15.1.78 for the period which was treated as 'on duty'.
- ii) the respondents be directed to sanction yearly increment due on 1st August of every year from 1978 to 31.6.87 which was sanctioned from 1st January of every year and arrears be paid.

iii) compound interest at the rate of 15% for delayed payment of D.C.R.G., Commutation, Leave salary etc.

2. The facts of the case as stated by the applicant are that the applicant while working as Head Booking Clerk with respondents, was served a major penalty charge-sheet and remained under suspension from 13.8.77 to 15.1.78. Accordingly the increment due on 01.8.78 was not given effect from due date, but was reduced for 5 months back for the suspension period till the date of superannuation of the applicant i.e. 30.6.87. It is submitted that in the departmental inquiry the applicant was exonerated of the charge. Inspite of the repeated representation, the departmental authorities kept mum and did not pay salary and allowances for the period. Therefore, the applicant filed original application before the Central Administrative Tribunal, Patna Bench, which was registered as O.A. 295/89 and was finally disposed of with the direction to pay the difference of wages ~~excluding~~ including regularisation of suspension period as on duty. The applicant has approached the respondents for implementation of the said relief but that relief was not granted, therefore, he has no alternative except to file this O.A. and prayed to give necessary directions to the respondents, as prayed for.

3. 
The counter-affidavit has been filed by the respondents. In the counter-affidavit, it is admitted that the applicant was placed under suspension by the competent authority from 13.8.77 to 15.1.78. It is also admitted that after finalisation of D.A.R proceedings and in pursuance of directions given by the Hon'ble Tribunal, necessary order has been passed for regularising the suspension period as on duty and applicant was allowed proforma promotion in accordance with the rules as Head Commercial Clerk in the

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grade of Rs.1400-2300/- and in the grade of Rs.1600-2660(RPS) vide office order dated 20.6.1988. It is also admitted that the applicant has filed O.A.No. 295/89 before Patna Bench which was disposed of vide judgment dated 30.5.90 and necessary orders have already been passed. It is submitted that his pensionary benefit has also been revised accordingly. It is also submitted that all retiral benefits due to the applicant has already been paid by the railway administration in due time. It is also stated that the claim of the applicant relates to the year 1978-79 and all the records are not easily available in the office of the answering respondents and as such necessary formalities for making payment to the applicant was not possible for the respondents as such the delay in making the necessary payments is due to the applicant. It is neither intentional nor deliberate but is beyond the control of the railway administration and in this way on the basis of the averments made in the counter-affidavit, the respondents have requested to dismiss this O.A. with cost.

4. The applicant has filed rejoinder in the case, reiterating all the facts mentioned in the O.A.

5. I have heard the petitioner inperson and thereafter learned lawyer for the respondents-Sri Prashant Mathur. I also perused the written submissions made by the applicant.

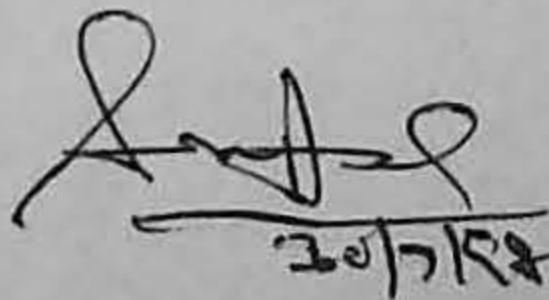
6. It is not disputed that a major penalty charge-sheet was issued to the applicant and in pursuance of that charge-sheet, the applicant remained under suspension from 13.8.77 to 15.1.78 and that suspension period was treated as on duty and the applicant was also allowed proforma promotion vide office order dated 20.6.88.

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7. It is also not disputed that the applicant filed O.A. 295/89 before Patna Bench, which had given directions to effect compliance of their orders as contained in annexure-A and annexure-B of their written statement, within the period of 2 months from the date of receipt of the order. It also appears that the applicant receives the payment of D.C.R.G. and his pension has also been revised on the basis of pleadings of the parties. It also appears that the applicant did not receive the payment at annexure-A and B of the Written Statement inspite of the orders passed by the Patna Bench of the Tribunal in O.A. No. 295/89 and still the payment is due. It is submitted by the learned lawyer for the respondents that because of non-availability of the record and non-cooperation of the applicant, the payment could not be made to the applicant, therefore, the applicant is not entitled to any interest. I do not agree with the arguments advanced by the learned lawyer for the respondents. The matter pertains to the year 1978 for which applicant is fighting till today. Therefore, in view of the submissions made before this Tribunal by both the parties, I am of the considered opinion that the applicant is entitled to interest at the rate of 12% per annum on the amount due from the date it accrues to the date of actual payment.

8. The applicant has also made a request that interest should be allowed to him on delayed payment of D.C.R.G. and other pensionary benefits. No interest can be allowed on delayed payment of D.C.R.G. and other pensionary benefits as nowhere it could be established that there was any intentional delay on the part of the respondents while making the payment of D.C.R.G. and other pensionary benefits.


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9. Therefore, this O.A. is allowed and respondents are directed to make the payment within 3 months from the date of receipt of copy of this order regarding;

(i) suspension period from 13.8.77 to 10.1.1978 which was treated as 'on duty'.

(ii) arrears in consequence of regularisation of suspension period with regard to increment date which was put 5 months back during such period.

(iii) interest at the rate of 12% per annum from the date of petition till the date of payment.

10. No order as to costs.


Member (J) 3-17-88

/M.M./