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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

ALLAHABAD

Original Application No. 456 of 1994

Allahabad this the 16th day of November 1995

Hon'ble Mr. Justice B.C. Saxena, Vice Chairman

H.C. Saxena, retired Senior Clerk in the office of Divisional Security Commissioner (R.P.F.), Northern Railway, Allahabad at present residing at C/O Shri E.M. Dass, A-330/1 Kareilly Housing Scheme G.T.B. Nagar, Allahabad.

APPLICANT.

By Advocate Shri H.S. Kulshrestha

Versus

1. Union of India through the Chief Security Commissioner (R.P.F.) Northern Railway, Head Quarter's Office, Baroda House, New Delhi.
2. Senior Divisional Accounts Officer, Northern Railway, Allahabad.
3. The Divisional Security Commissioner (R.P.F.) Northern Railway, Allahabad.

RESPONDENTS.

By Advocate Shri A.V. Srivastava.

O R D E R (Oral)

By Hon'ble Mr. Justice B.C. Saxena, V.C.

The applicant who retired from the post

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of Senior Clerk on 31st July, 1989 was denied his pensionary benefits and other post retirement benefits. He approached this Tribunal earlier by filing O.A. 673 of 1991. The said O.A. was decided by an order dated 18.3.1993 and respondents were directed to pay pension, gratuity, fund etc. and to regularise the period of suspension of the applicant from 23rd June, 1977 to 02nd November, 1989 with all consequential benefits. The payment was not being made. The Divisional Security Commissioner, R.P.F. Northern Railway, Allahabad passed an order on 04.8.1993 indicating the revised pay of the applicant from 11.7.1977 till the date of his retirement. The applicant challenges this order of 04.8.1993 and claims that the fixation of pay shown in the said order, is erroneous. However, since during pendency of the O.A., the applicant grievance with regard to fixation of his pay, ^{on promotion, but} notional fixation of pay have been redressed, The Learned counsel for the applicant has stated before me that only relief which remains for consideration is grant of interest on the delayed payment of D.C.R.G. from the period 31.8.1989 to 17.11.1993. When part payment ^{and} have been made, the interest on the difference of the balance amount till the date of actual payment is also being claimed. The actual payment ^{made} of the entire amount was ~~paid~~ ^{made} on 01.12.1994. ^{of balance}

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The other reliefs prayed for in the

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O.A., have become infructuous, since the said reliefs have already been granted by the respondents. Learned counsel for the applicant in support of his submission that 18% interest on delayed payment of D.C.R.G. may be awarded, has cited two Supreme Court decisions. One is 'Union of India Vs. Justice S.S. Sandhawalia 1994 U.P.L.B..E.C. page 192' and other is 'R. Kapoor Vs. Director of Inspection, Income Tax and another J.T. 1994(6) S.C.354.'

3. Shri A.V. Srivastava, learned counsel for the respondents, however, submitted that interest on delayed payment of D.C.R.G. should only be directed if it is shown that there has been undue delay on the part of the respondents. Learned counsel for the respondents in respect of the other claims viz. fixation of pay during suspension and due to notional promotion, has ^{read} ~~made~~ out certain paragraphs in the counter-affidavit to show that the rules on this subject and other documents were required to be considered and that resulted in some delay in payment. These averments are wholly unhelpful. The applicant is not, however, raising his grievance with regard to delayed payment to which he was entitled on account of decision on the question of notional promotion and fixation of pay during suspension etc. There is no submission to explain the delay in payment of D.C.R.G. to the

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applicant. The applicant retired on 31.7.1989. The D.C.R.G. payment ^{was made} ~~available~~ to him on 31.8.1989. Learned counsel for the respondents urged that since final computation of the amount due to the applicant in ^{respect} ~~support~~ of the D.C.R.G., depended on re-fixation of pay of the applicant after considering the question of notional promotion etc. delay in payment, cannot be attributed to the administration. There is no whisper in the counter-affidavit to support the submission. The fact remains that the applicant has not been paid his D.C.R.G. due from 31.8.1989 till 17.11.1993. On 17.11.1993, ~~the~~ some amount towards D.C.R.G. was paid to him and balance was paid to him ^{1st} on December, 1994. Keeping in view the proposition of law laid down by the Hon'ble Supreme Court in the aforesaid two decisions, I direct that respondents shall pay to the applicant interest at the rate of 18% on the amount of D.C.R.G. which remained unpaid during the period 31.8.1989 to 17.11.1993 plus interest at the same rate on the balance amount of D.C.R.G. from 17.11.1993 till the actual date of payment viz. 01.12.1994. It is further provided that this amount by way of interest shall be paid to the applicant within a period of 3 months from today. and incase the payment is not made, further interest at the rate of 12% would be payable by the respondents to the applicant ^{on interest amount} ~~for~~ till the date of actual payment of the interest amount, as

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directed above. The O.A. is disposed of
in terms and directions indicated above.
The parties shall bear their own costs.

B. Sakse

Vice Chairman

/M.M./