

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 27th day of November 1997

Original Application no. 988 of 1994

Hon'ble Mr. S. Dayal, Administrative Member.

S.N. Srivastava, s/o Sarbjit Lal, r/o A-5, Acharya RamChandra Shukla Nagar, Deoria.

... Applicant

C/A Shri S.C. Tripathi
Shri M. Updyayaya

Versus

1. Union of India through Secretary of Railway, New Delhi.
2. General Manager, Railway Baroda House, New Delhi.
3. Deputy Chief Engineer, Concrete Sleeper Plant, Northern Railway, Khalispur, Varanasi.

... Respondents

C/R Shri J.N. Singh

ORDER

Hon'ble Mr. S. Dayal, A.M.

This is an application under section 19 of the Administrative Tribunals Act, 1985.

2. The applicant seeks payment of 15% interest on account of ^{life payment of} gratuity, pension, ^{and} commutation of pension amount. He also seeks cost of this case.

3. The application has stated that he was retired from service on 31.01.91 from Concrete Sleeper Plant, Northern Railway, Varanasi on attaining age of superannuation. The

.....2/-

applicant was not paid Gratuity, Commutation of Pension and pension and on inquiry he was told that there was disciplinary proceeding pending against him. The applicant was served with a charge sheet dated 11.01.91/03.02.91 for ~~mejo~~ penalty on account of irregularity found in the ballast sample by a team of C.B.I Officials in October 1986. The inquiry officer submitted a report ^{the} to disciplinary authority on 31.01.92 holding that the applicant was not guilty of illegality, misconduct or irregularity. The disciplinary authority agreed with the findings and exonerated the application of charges on 11.12.92. The applicant was paid an amount of Rs. 57,750/- as Gratuity on 01.05.1993 and an amount of Rs. 73,179/- towards the commutation of Pension on 11.06.93. The applicant claims that the amount should have been paid within one month from the date of retirement. He also alleges that several representations made by him did not yield any result. After having amount of gratuity and commutation of pension, he made detailed representation on 16.08.93 claiming the amount of Rs. 34,813/- towards interest @ 15% w.e.f. 31.08.91 up to 01.09.93.

4. The respondents in their counter affidavit have stated that the applicant was granted provisional pension in terms of paragraph 2308-A, Indian Railway Establishment Code Vol. 2. This rule is based of C.S.R 351-B and reads as under:-

"1. Where any departmental or judicial proceeding is instituted under rule 2308 (C.S.R 315A) or where a departmental proceeding is continued under clause (a) of the proviso thereto against a Railway servant who has retired on attaining the age of compulsory retirement or otherwise he shall be paid during the period commencing from the date of his retirement to the date on which, upon conclusion of such proceeding, final orders are passed, a provisional

.....3/-

pension not exceeding the maximum pension which would have been admissible on the basis of his qualifying service up to the date of retirement, or if he was under suspension on the date of retirement, upto the date of immediately preceding the date on which he was placed under suspension ; but no gratuity or death-cum-retirement gratuity shall be paid to him untill the conclusion of such proceedings and the issue of final orders thereon.

2. Payment of provisional pension made under clause (1) shall be adjusted against the **final** retirement benefits sanctioned to such Railway servant upon conclusion of the aforesaid proceeding but no recovery shall be made where the **pension** sanctioned is less than the provisional pension or the pension is reduced or withheld either permanently or for a specified period."

The respondents have also stated in the counter affidavit that the **inquiry** conducted by inquiry officers and C.D.I./ C.V.C who submitted the report on 31.07.92. The applicant was, thereafter , exonerated by order dated 11.12.92, and his provisional pension was converted into **final** pension and amount of D.C.R.G admissible to him was paid after necessary formalities. The respondents have admitted that payment of delayed amount of D.C.R.G is under consideration with the associated accounts and the amount of interest as admissible in the rules will be paid in due course. They have denied that the applicant was entitled to any payment of interest on account of late payment of commuted pension.

5. Arguments of Shri M. Updhayaya learned counsel for the applicant and Shri J.N. Singh learned counsel for the respondents were heard.

pension not exceeding the maximum pension which would have been admissible on the basis of his qualifying service up to the date of retirement, or if he was under suspension on the date of retirement, upto the date of immediately prece-ding the date on which he was placed under suspension ; but no gratuity or death-cum-retirement gratuity shall be paid to him untill the conclusion of such proceedings and the issue of final orders thereon.

2. Payment of provisional pension made under clause (1) shall be adjusted against the final retirement benefits sanctioned to such Railway servant upon conclusion of the aforesaid proceeding but no recovery shall be made where the pension sanctioned is less than the provisional pension or the pension is reduced or withheld either permanently or for a specified period."

The respondents have also stated in the counter affidavit that the inquiry conducted by inquiry officers and C.D.I./ C.V.C who submitted the report on 31.07.92. The applicant was, thereafter , exonerated by order dated 11.12.92, and his provisional pension was converted into final pension and amount of D.C.R.G admissible to him was paid after necessary formalities. The respondents have admitted that payment of delayed amount of D.C.R.G is under consideration with the associated accounts and the amount of interest as admissible in the rules will be paid in due course. They have denied that the applicant was entitled to any payment of interest on account of late payment of commuted pension.

5. Arguments of Shri M. Updhayaya learned counsel for the applicant and Shri J.N. Singh learned counsel for the respondents were heard.

6. The facts shows that the inquiry was completed on passing of final order by the disciplinary authority on 11.12.92. The applicant has claimed that as he was exonerated, he is entitled to payment of interest from the date of payment of pension and gratuity became due to 31.08.91. This claim of the applicant is not in accordance with the provisions of paragraph 2308-A of Indian Railway Establishment Code which provides for payment of provisional pension and non payment of gratuity till the conclusion of proceedings. The facts are clear that the payment of pension as well as Gratuity fell due on completion of proceeding on 11.12.92. There has, however, been ^{some} delay which is attributable to the respondents. Since the disciplinary proceedings against the applicant were going on and payment of gratuity and commutation of pension should have been anticipated and papers kept ready for making them as soon as the order of exoneration was passed, the delay in making payment of gratuity and commutation of payment can be taken to have occurred from 11.12.92 to April 1993 in case of gratuity and in case of commutation of pension till 11.06.93. The respondents have mentioned the procedural formalities as the reasons for such delay. However, they should have completed procedural formalities and kept ready for payment of gratuity as soon as the order of exoneration was passed.

7. The respondents, are, therefore, directed to make payment of interest on the amount of gratuity as well as commutation of pension to the applicant @ 12% per annum till the date of payment within three months from the receipt of copy of this order from the applicant.

8. There shall be no order as to costs.


Member-A