

CENTRAL ADMINISTRATIVE TRIBUNAL AL LAHABAD BENCH

ALLAHABAD.

Allahabad this the 27th day of November 2000.

Original Application no. 508 of 1999.

Hon'ble Mr. S. Dayal, Administrative Member

R.S. Singh Chauhan,
Retired Traffic Inspector,
N. Rly.,
R/o 107, Katra Bal Singh,
Etawah.

... Applicant

C/A Shri A. Srivastava
Shri R.P. Srivastava

Versus

1. Union of India through the General Manager,
N. Rly., New Delhi.
2. The D.R.M., N. Rly., Allahabad.
3. The Senior Divisional Personnel Officer,
N. Rly., Allahabad.
4. Shri Pradeep Bhatnagar, The then Senior D.O.S.,
Allahabad, now working under General Manager,
Baroda House, Northern Railway, New Delhi.

... Respondents

C/Rs. Shri A.K. Gaur

// 2 //

O R D E R(Oral)

Hon'ble Mr. S. Dayal, Member-A.

This OA has been filed for direction to the respondents to pay commutation value of Rs. 49,706/- payable on the date of retirement i.e. on 1.1.89 with interest from 1.1.89 to 31.12.95. The applicant has stated that he is claiming the difference between Rs. 49,703/- and Rs. 40,392/- amounting to Rs. 9314/- alongwith interest. The total claim of the applicant with interest for 6 years is stated to be Rs. 25,756/-

2. The case of the applicant is that he retired on superannuation on 31.12.88. He alleges that on account of malice, the Sr. D.O.S. (respondent no. 4), N. Rly., Allahabad initiated disciplinary proceedings for major punishment against him, barely 10 days before his superannuation. He ignored advise of Sr. D.P.O. N. Rly., Allahabad in initiating disciplinary proceedings. A notice was issued by respondent no. 4 for with-holding 12.33% of DCRG which remains in limbo despite furnishing of a reply by the applicant. Hence, an application was filed in the Tribunal which resulted in issuance of direction to the respondents to decide the case within a month. When no order was passed, a contempt petition was filed. In this petition orders were passed granting 3 months time to the respondents to sanction and release the DCRG. The disciplinary proceedings initiated against the applicant were dropped by order dated 9.5.94. The applicant was sanctioned commutation of pension amounting

// 3 //

to Rs. 40,392/- on commutation of pension of Rs. 396/- while applicant was entitled to Rs. 49,706/- at the time of superannuation.

3. Learned counsel for the parties have been heard and perused the record.

4. The short points involved in this case are :

i. the date from which the applicant is entitled to commuted value of his pension.

ii. The amount of commuted value of pension.

5. As regards the first issue, the learned counsel for the respondents has drawn attention to para 3 of pension circular no. 11/81 dated 25.2.81 in which para 3 lays down as below :-

"A Railway servant against whom departmental or judicial proceedings have been initiated and/or where such departmental proceedings continued after retirement under Rule 2308 - RII is paid only provisional pension as provided in sub rule (1) of Rule 2308 A-R II and is not permitted to commute apart of his pension during the pendency of the proceedings vide the third proviso to Rule 2903 RII. If on the conclusion of the proceedings, the entire amount of pension is withheld, the question of commutation of a part of pension does not arise. If such a person on the conclusion of the proceedings is granted pension in whole or in part, he would be eligible to commute apart of that pension. A question has been raised whether for the purpose of commutation of pension without medical examination, the period of one year shall reckon from the date of Government orders issued on the conclusion of pension without medical examination, the period

// 4 //

of one year will reckon from the date of orders issued on the conclusion of the proceedings."

This makes it clear that the applicant would be entitled to receive the commutation value of pension on completion of departmental proceedings against him because the applicant would be entitled to ~~any~~ commutation on ~~the~~ part of pension, ^{not h} ~~if~~ ^{completion h} ~~on compliance~~ of the proceedings the entire amount of pension is withheld, ^h Since the departmental proceedings were concluded on 9.5.94, ^h the order of commutation should have been made within a period of three months on concluding of these proceedings.

6. As far as the amount of commuted value of pension is concerned, the respondents have drawn attention to annexure A4 which is an commutation dated 22.12.95. It has been mentioned ^{order} ^{therein} ^{monthly} that the amount of ~~family~~ pension of Rs. 1188/- stood reduced to Rs. 192/- out of the total amount of pension from the date of payment of commuted value of the applicant or three months ^{from h} ~~after the~~ issue of the ~~letter of pension~~ ^{letter of pension} ~~authority~~. The amount of commuted value ^{is} mentioned to be Rs. 40,392/-. The respondents have contended that the applicant was not entitled to commuted value of pension of Rs. 49,706/- with reference to relevant age factor 10-46 on 59 years of age because the ~~DAR~~ case is pending against him. He was, therefore, granted Rs. 40,392/- as commuted value with reference to relevant age factor 8-59 on 65 years of age. The applicant had admittedly superannuated on 31.12.88. He was, therefore, entitled to commutation of pension as admissible to him at that time. The departmental inquiry which was being held against him could only result in postponement

11 5 11

payment of the of commutation legitimately of pension of this amount legitimately till the conclusion of the departmental inquiry and pass- age of orders based on the recommendation of the departmental inquiry. But it cannot be made basis for reduction of amount of commutation value by application of a different formula for calculating the commuted value of pension.

7. In the light of above discussion, it is considered appropriate to direct the respondents to pay the difference of Rs. 9314/- with interest of 10% pa from 1.9.94 till the date of payment. This order shall be complied with within a period of three months from the date of communication of copy of this order.

8. No order as to costs.


Member-A

/pc/