

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.**

ORIGINAL APPLICATION NO.1174 of 2003.

ALLAHABAD THIS THE 12TH DAY OF AUGUST 2005.

Hon'ble Mr.D.R Tiwari, Member-A

Manik Chandra JOnari
S/o late Sri Sukhdeo Prasad
Aged about 62 years, R/o 6/12, Lukergunj,
Allahabad.

.....Applicant.

(By Advocate: Sri R.C. Pathak)

Versus.

1. Union of India
Through the General Manager
N.C. Railway, Allahabad (U.P)
2. The F.A. & C.A.O
N.C. Railway, Allahabad.
3. The Dy. F.A. and C.A.O (Cash)
N.C. Railway, Allahabad.
4. The Divisional Railway Manager
N.C. Railway, Allahabad.
5. The Sr. Divisional Finance Manager
N.C. Railway, Allahabad.
6. The Divisional Cashier,
N.C.Railway, Allahabad.
7. The Senior Divisional Finance Manager,
N.C. Railway, Allahabad.

.....Respondents.

(By Advocate : Sri A.K. Gaur)

O R D E R

By this O.A. filed under 19 of the A.T. Act, 1985, the applicant has prayed for issuance of direction to respondent NO.2 to pay the D.C.R.G. amount Rs.1,84,223/- without further lapse of time along with 18% penal interest for delay in payment of D.C.R.G. as the applicant retired on 31.12.2001.

2. Briefly stated, the applicant was appointed on the post of Shroff on 10.06.1966 in Northern Railway, Allahabad by earning subsequent promotion, he retired from the

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post of Divisional Cashier, N.C. Railway (formerly Northern Railway), Allahabad. It has been submitted that there is no disciplinary proceeding pending against the applicant nor the applicant has been informed of any action against him nor any chargesheet has been filed against him. The General Manager (Vig.) Headquarters Office Baroda House, issued vigilance clearance order on 11.12.2001 to the applicant (Annexure A-2). The Deputy C.A.O. (C&P) Northern Railway, New Delhi issued on 15.1.2002 sanction for payment of settlement of dues in favour of the applicant including the D.C.R.G of Rs.1,84,223/- (Annexure A-3). The grievance of the applicant is that his retiral dues is illegally and unlawfully has been withheld by the respondent NO.5 after retirement on 31.12.2001.

3. Aggrieved by the non-action on the part of respondents, the instant O.A. has been filed and is being challenged on various grounds mentioned in para 5 of the O.A. He has further argued that several representations were filed to the respondent NO.2, 4 and 5 on 16.11.2002, 6.2.2003 and 5.8.2003 (Annexures A-4, A-5 and A-1). It has been submitted that these representations are pending with the aforesaid respondents without any action till the date of filing of this O.A. In view of these reasons, the applicant has pleaded that his O.A. deserves to be allowed.
4. Respondents, on the other hand, have contested the O.A. and have filed a detailed counter affidavit. It has been submitted that the applicant, though retired on 31.12.2001 but could not handover the charge because he was suffering from the heart disease. It has been further submitted that the applicant was requested vide letter dated 1.4.2002 to attend the office and reconcile the account but he did not attend the office till date. It was noticed that interest on H.B.A which was paid through salary bill, had also not been recovered during his service period and cost of 7 locks supplied to him was neither deposited in cash by him nor he had returned the locks. The main argument of the respondents is that in view of the short comings attributable to the

Defence

applicant his death-cum-retirement gratuity was withheld although the payment of provident fund, leave encashment group insurance had been paid and regular payment of pension is being arranged to the applicant. The matter was brought to the notice of the competent authority and the competent authority has approved the release of death-cum-gratuity which has been arranged for payment vide AB NO.1084 D,C,R,G dated 23.10.2003 C.O -7 No.311 dated 5.11.2003 cheque NO.242926 dated 5.11.2003 for Rs.1,85,223-00 after deducting Rs.10,273-00 (net payment rs.1,73,950-00). It has thus been prayed that the O.A. is devoid of merit and be dismissed.

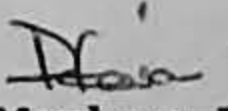
5. During the course of the hearing, the counsel for the applicant submitted that he does not want to press the prayer regarding payment of D.C.R.G. amount as that has already been agreed to by the respondents and the applicant has received the same. However, he has argued that he is entitled to the payment of interest for delayed payment of gratuity and other retiral benefits. He has submitted that the applicant retired on 31.12.2001 and D.C.R.G payment has been made on 5.11.2003, thus he is entitled for the interest and he has strongly relied on the relevant Rules for payment of interest on delayed payment. The counsel for the respondents, on the other hand, has reiterated the points raised in the counter affidavit of the respondents.
6. I have heard counsel for both the parties and perused the pleadings.
7. The only issue which requires consideration is with regard to the payment of interest for the period of delay caused. The undisputed fact is that the applicant retired on 31.12.2001 and the payment was made on 5.11.2003 (para 7 of the Supplementary counter reply refers). It is equally undisputed that the applicant was suffering from heart disease and it was not possible for him to attend to the office for reconciling the accounts and depositing the locks in question. It is evident from para 5 of the counter

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affidavit that he could not handover the charge as he was suffering from heart disease. He was entitled for payment of retiral benefits within three months and any delay beyond that has not been explained by the respondents. Exactly on expiry of three months period, the respondents wrote a letter dated 1.4.2002 requesting the applicant to attend the office. It is not understandable as to why the respondents should wait for three months to inform the applicant that some accounts were to be reconciled and 7 locks were to be deposited by him. This, they have done despite their knowledge, that the applicant was suffering from heart attack. It is also not their case that some defects were detected in the maintenance of account and the flimsy ground about the deposit of 7 locks does not at all appear reasonable. If one takes a dispassionate view of the entire chain of events involved in this case, one is bound to reach the conclusion that the applicant has been made to suffer for no fault of his and he is entitled for payment of interest at the rate of Rs.8% per annum.

8. In view of facts and circumstances mentioned above, the O.A succeeds on merit and is allowed. The respondents are directed to pay the interest at the rate of 8% P.A for period beginning from 1.4.2002 to 5.11.2003. The entire exercise should be done within a period of three months from the date of receipt of a copy of the order.

No order as to costs.


Member-A

Manish/-