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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 106 OF 1986
T.AxxNo.

DATE OF DECISION 26-11-1986

SRAVAN V. GAWAI

Petitioner

T.N. SHAH

Representative of
~~Advocate for~~ the Petitioner(s)

Versus

UNION OF INDIA, GENERAL MANAGER, Respondent(s)
W.RLY.

R.P. BHATT

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.H. TRIVEDI, VICE CHAIRMAN.

The Hon'ble Mr. P.M. JOSHI, JUDICIAL MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *Yes*
4. Whether it needs to be circulated to other Benches of the Tribunal. *No*

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JUDGMENT

O.A.No. 106 OF 1986.

Date: 26-11-1986.

Per: Hon'ble Mr.P.M. Joshi, Judicial Member.

The petitioner, Srawan Vishnu Gawai, of Ahmedabad, who was serving as a 'Parcel Porter' in Class IV category in the scale of 196-232(R) at Ahmedabad, retired from the service with effect from 2.5.85 on his attaining the age of superannuation. By way of this application under Section 19 of the Administrative Tribunals Act, 1985, he has claimed Rs. 6153-65 ps. (being the amount of gratuity) with 15% interest per annum from May 1985 till the date of payment. He has also claimed interest at the same rate on the amount of Rs. 3072-77 ps. (arrears of pension) from the period of April 1985 to February 1986. He has also sought the direction regarding the payment of pension which is not paid since the month of February 1986. It is alleged by the petitioner that his gratuity has been withheld without any reason and the authorities are guilty of culpable delay in not making the payment of pension and gratuity as expected of them under the Rules.

2. According to the respondents, the petitioner was due to retire on 31.12.1984 A.N. on attaining the age of superannuation, but by mistake he was continued in service beyond the age of superannuation up to 1.5.1985 A.N. It is stated that the period, during which the petitioner continued in service beyond the age of superannuation, has to be treated as re-employment. His pay would be Rs. 200 plus allowances under the normal Rules and not at Rs. 246/- plus allowances paid to him

for the period from 1.1.85 to 1.5.85 and thus, there is an overpayment made to him which is required to be approved by the Railway Board and hence his D.C.R.G. (Death-cum-retirement Gratuity) amounting to Rs. 6153-65 ps. has been kept in deposit with Railway Administration. With regard to the pension, it is stated that it is fixed in his favour vide Pension Pay Order dated 12.12.85 at Rs. 188 plus Rs. 151 'adhoc relief' which works out to Rs. 339/- minus Rs. 62/- towards commutation of pension (i.e., net amount of Rs. 277/-) which is paid to the petitioner through bank as opted by him.

3. We have heard Mr. T.N. Shah, the representative of the petitioner and Mr. M.R. Bhatt for R.P. Bhatt for the respondents. It is conceded by the petitioner that on the basis of his date of birth 4.12.26 recorded in service sheet he was due to retire on 31.12.84 A.N. The respondents also conceded that the petitioner was not relieved on 31.12.84 but he was continued in service beyond the age of superannuation upto 1-5-85 by mistake. It is not stated who had committed the mistake in this regard. Obviously for no fault of the petitioner, he was not relieved and continued in service and he was paid accordingly. It is rather astounding that even till to-day i.e. after a lapse of one year and six months, the authorities have not taken any decision regarding any possible recovery on the count of the petitioner being treated as re-employed servant. Looking to the nature of the reply given by the respondents, it is not possible to know as to when such a decision will be taken by them. The petitioner would not have worked after 31.12.84, if he was informed that he will be paid less than what he was paid previously.

However, the authorities will be at liberty to take decision as deemed proper in this regard. But that can hardly be regarded as a valid ground for detaining the amount of Gratuity (DCRG) or payment of pension after 18 months of the retirement.

4. It is the petitioner's grievance that the amount of pension has not been paid to him even after February 1986. The respondents have referred to the pension pay order dated 12.12.85. But they have not stated the date on which the arrears of pension amount was paid to the petitioner. As against this, the petitioner has stated categorically that he has been paid a sum of Rs. 3072-77 ps. being the arrears of pension on 14.2.1986, after repeated representations. The present case is a glaring instance of such culpable delay in the settlement of pension and gratuity claims legitimately due to the petitioner, who retired on 2.5.1985. It is the decided policy of the Government that the pension papers are required to be prepared much in advance and the requisite documents should be completed before the date of the retirement so that the payment of gratuity amount could be made to the Government servant on the date he retires or on the following date and pension at the expiry of the following month. Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, by the decisions of the Supreme Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment.

5. The necessity for prompt payment of the retirement dues to a Government servant immediately after his retirement can not be over emphasised and it would not be unreasonable to direct that the liability to pay penal interest on these dues at the current market rate at the rate of 12% per annum at the expiry of two months from the date of retirement, as against 15% per annum claimed by the petitioner in the present case. With regard to the petitioner's grievance that he has not received pension since February 1986, it will be sufficient for us direct the petitioner to take up the matter with the Bank authority, as the Government has already passed the pension pay order. In case, he has still a grievance in this regard he will be free to file a fresh application, as advised.

6. In M. Padmanabhan Nair, (1985 S.C.C.(L & S) 278), it has been observed by the Supreme Court as under :-

"that it will be for the State Government to consider whether the erring official should or should not be directed to compensate the Government the loss sustained by it by his culpable lapses. Such action if taken would help generate in the officials of the State Government a sense of duty towards the Government under whom they serve as also a sense of accountability to members of the public".

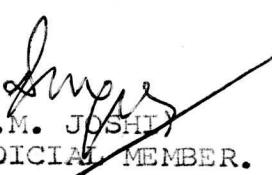
7. We reiterate the same views and wish that such action is taken after examining the fact situation of this case. In this view of the matter, the petitioner succeeds and accordingly we pass the following order :

: O R D E R :

The application is allowed. The respondents

are directed to pay the petitioner a sum of Rs. 6153-65 ps. with interest at the rate of 12% per annum from 2.7.85 till the date of payment. The respondents are also directed to pay interest at the same rate from 2.7.85 to 14.2.86 on account of late payment of the pension amount of Rs. 3072-77 ps. The respondents, however, will be at liberty to deduct or retain the amount which they deem sufficient to cover the dues on account of overpayment, in case the petitioner is considered as re-employed for the relevant period, as may be permissible under the Rules. The directions issued in this regard should be complied within three months from the date of this order. There will be however no order as to costs.


(P.H. TRIVEDI)
VICE CHAIRMAN


(P.M. JOSHI)
JUDICIAL MEMBER.