

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 293 of 1992.

~~**T.A. NO.**~~

DATE OF DECISION 20-12-1995.

Shri Harshadrai Ratilal Oza. Petitioner

Mr.M.M.Xavier Advocate for the Petitioner (s)

Versus

Union of India and ors. Respondent

Mr. R.M.Vin Advocate for the Respondent (s)

CORAM

The Hon'ble Mr. K.Ramamoorthy : Member (A)

The Hon'ble Mr.

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
 2. To be referred to the Reporter or not ?
 3. Whether their Lordships wish to see the fair copy of the Judgment ?
 4. Whether it needs to be circulated to other Benches of the Tribunal ?
- / *LS*

Shri Harshadrai Ratilal Oza,
Ex-Station Supdt., Dhola Jn.,
Bhavnagar Division of Western
Railway Administration, Bhavnagar.

...Applicant.

(Advocate : Mr.M.M.Xavier)

Versus

1. The Union of India,
Owning & Representing
Western Railway,
Through its General Manager,
Churchgate,
Bombay - 20.
2. Divisional Railway Manager,
Western Railway,
Bhavnagar Division,
Bhavnagar Para - 3.
3. Divisional Accounts Officer,
Western Railway,
Bhavnagar Divn.,
Bhavnagar Para - 364 003.

...Respondents.

(Advocate : Mr.R.M.Vin)

J U D G M E N T

O.A.NO. 293 OF 1992.

Date : 20-12-1995.

Per : Hon'ble Mr.K.Ramamoorthy : Member (A)

This application relates to grant of payment of interest on the delayed payment of gratuity, leave salary and commuted value of pension. The facts of the case are as under : -

The applicant had attained the age of superannuation on 30-6-1988. Though a charge-sheet had been served on the applicant on 14-6-1988 vide SF-11, it was withdrawn on 28-6-1988. Thereafter, a charge-sheet No.ET/303/88/1012 dated 20-8-1988 was again served on the applicant for imposing a major penalty on the said charge. However, this was received by him on 31-8-1988 i.e. on the subsequent date of his retirement. Even though the

applicant had represented thereafter for payment of his retirement dues, he was informed vide Annexure-A/5 dated 1-2-1989, that since a major D.C.R.G. case involving Rs.69,000 remained to be decided, the amount of leave salary was kept pending. However, the Railways themselves had thereafter dropped all the proceedings and decided to release the retirement benefits. Accordingly, retirement benefits of leave salary were paid to the applicant on 12-10-1989 and the commuted value of pension was paid on 13-10-1989. It is clear that with the final payment of the retirement benefits with interest on D.C.R.G. amount, the Respondents had accepted the fact that the applicant was due for retirement benefits with interest and it was also accepted by the Respondents that the delay was due to reason not attributable to the railway servant. The present application therefore, reduces itself to the mere fact as to rate of interest that should be payable to the applicant and on what items.

It is the contention of the applicant that he had been paid interest at the rate of only 7% when, as per the policy of the Government of India, interest at the rate of 10% per annum was allowed on the delayed payment. In fact, during the arguments, the counsel for the applicant stated that since the delay in payment was caused for reasons which could not be attributed to the applicant, he should be entitled to the market rate of interest i.e. 18%. The applicant has also claimed that he should be paid interest on the delayed payment of leave salary and also on the delayed payment of the commuted pension.

2 So far as the Tribunal is concerned, it is governed by the actual rules and regulations which exist. It cannot grant interest except to the limited fact of ensuring that the Government servant gets what is due to him.

It is also well settled that equity jurisdiction does not lie with the Tribunal and no relief can be granted to the employee unless it is based on any right, is also upheld in the order O.A.No.1558 of 1993 decided on 27-4-1995, (1995)31 Administrative Tribunals Cases 349 (para 14).

In this case, the Respondent Department has not specifically indicated in their written statemtn as to why they have paid only 7% interest as interest due in delayed payment of gratuity. It is clear that the rates of interest have since been changed and there is merit in the claim of the applicant that rates of interest as are payable on the actual date of release of payment should be paid to the employee. Therefore, the case of the applicant for payment of interest at the rate of 10% is upheld in so far as delayed payment of gratuity is concerned and so far as this case is concerned, it should be so paid.

As regards the payment of interest on delayed payment of commuted pension and the leave salary, the counsel for the applicant himself conceded the fact in respect of commuted pension that since the applicant was liable for getting provisional pension, the question of getting any interest on the commuted pension does not arise.

It is seen that leave salary was withheld because disciplinary proceedings were contemplated. It is clear that at the time of retirement of the applicant, some proceeding had been in progress, though they were dropped later. Though there is a specific provision for payment of interest on D.C.R.G. there is no similar specific provision for payment of interest in delayed payment of leave salary. There is merit in the contention of the Respondents that without a specific provision the applicant will not be entitled to interest on the delayed payment on leave salary. Accordingly, the claim for interest on the delayed payment of amount of leave salary is rejected.

2

However, it is open to the applicant to represent to the authorities to grant compensation for the loss sustained in this case on account of delayed payment for reasons entirely attributable ~~xxx~~ to the Department which the respondents may dispose off, keeping the equity consideration in mind.

With the above directions, O.A. stands disposed of.

No order as to costs.



(K. Ramamoorthy)
Member (A)

ait.

SECTION-IX

Central Administrative Tribunal
Ahmedabad Bench

No. 2956
Date 25/09/96

D. No. 682/96/Sec.IX

Supreme Court of India
New Delhi.

Dated: ~~29th August, 1996~~
4/8/96

From:

Section Officer,
Supreme Court of India,
New Delhi.

To:

The Registrar,
Central Administrative Tribunal,
Ahmedabad Bench,
Gujarat.

10827 OF 1996
PETITION FOR SPECIAL LEAVE TO APPEAL (C) NO.
(Petition under Article 136 of the Constitution of India,
from the Judgment and Order dated 20th December, 1995 in
the Central Administrative Tribunal, Ahmedabad Bench,
Gujarat in OA 293 of 1992)

Harshadrai Ratilal Oza

..Petitioner(s)

-Vs-

Union of India & Ors.

..Respondent(s)

Sir,

I am directed to inform you that the Petition above-mentioned filed in the Supreme Court was listed before the Court on 12th August, 1996 when the Court was pleased to pass the following order:-

"Learned Counsel for the petitioner submits that in view of the Circular of the Railway dated 7.8.1989 issued by the Railway Board regarding withholding of gratuity and payment of interest consequence upon such withholding of gratuity, the petitioner intends to file review petition before the Tribunal, the petitioner does not intend to press this petition. The petition is accordingly disposed of as withdrawn."

Yours faithfully,

SECTION OFFICER

For perusal please in

① Itenore am v. Radhakrishnan, 1987

② Itenore am v. Ramamurthy, 1987

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Application No. 087/293/92

Transfer Application No.

CERTIFICATE

Certified that no further action is required to be taken and
the case is fit for consignment to the Record Room (Decided)

Dated : 01/01/96

Countersign : [Signature]
01-1-96

[Signature]
Signature of the Dealing
Assistant

Section Officer.

I N D E X - S H E E T

08/293/92

Harshadrai R. Oza.

no. I. & Obs.

[illegible]

DAO - Bm

11

W. S. RAILWAY

RS. NO 259
dated 15-10-84.

Headquarters Office
Churchgate, Bombay
Dated: 18, Oct. 1984

No. S(S)739/O Vol. XII(1)

All concerned.

Sub:- Payment of Interest on delayed payment
of Death-cum-Retirement Gratuity.

A copy of Railway Board's letter No. F(E) III-79PNL/15
dated 14.9.84, alongwith its Hindi version is sent herewith
for information, guidance, and necessary action.

2. Railway Board's letter No. F(E) III-79PNL/15 dated 3.9.79
referred to therein was circulated vide this office letter
No. E(S)739/O Vol. X dated 21/24-9-1979.

Encls: as above.

for General Manager (E).

2 NOV 1984

Copy of Railway Board's letter No. F(E) 79, PNL/15 dt. 14.9.84
addressed to the General Managers, All Indian Railways

Sub:- Payment of interest on delayed payment of
Death-cum-Retirement Gratuity.

The Government have had under consideration the question of
raising the rate of interest payable to a Railway employee
on delayed payment of gratuity where the delay occurs on
account of administrative lapse or for reasons beyond the
control of the Government servant concerned. In part of modification
of this Ministry's letter No. F(E) III-79, PNL/15 dt.
3.9.1979, the President is now pleased to decide that
where the payment of D.C.R.G. has been delayed, the rate of
interest will be as follows :-

- i) beyond 3 months and upto one year - 7% per annum
- ii) beyond one year - 10 % per annum.

2. As already provided in this Ministry's letter referred to
above, the Railways should ensure that in all cases where
interest has to be paid, action should be taken to fix
responsibility for the delay and disciplinary action should be
taken against the officer responsible for it.

3. These orders are effective from 23.7.84.

4. The cases of those Railway employees who retired/died
while in service before 23.7.84, would also be covered if Death
cum-Retirement Gratuity has not been paid as on that date and
there has been delay in its payment beyond three months of the
date of their retirement/death for which interest is payable
accordance with the existing orders. In such cases the interest
would be worked out at the rates mentioned in the letter
dated 3.9.1979 upto the date preceding the date of issue of
this letter and thereafter at the rates indicated in para 1
above.

add 55% on the sum
the 10 relevant months wherever app-

con

P.S.NO.89/91

WESTERN RAILWAY

Headquarter Office,
Churchgate, Bombay.

No.E(S)989/O/Vol.XV

Date:06-05-91

To,
All Concerned,
C/-G.S-WREU-GTR/WRMS-BCT.

Sub: Payment of interest on account of delayed payment of retirement / death gratuity.

A copy of Railway Board's letter No.F(E)III/79/PN-1/15 dated 15/4/91 is sent herewith for information, guidance and necessary action.

Hindi version of Board's letter dated 15/4/91 is enclosed.

DA:As above.

For General Manager.

Copy of Railway Board's letter No.F(E)III/79/PN-1/15 dt.15.4.91 addressed to All General Managers and Others.

Sub: Payment of interest on account of delayed payment of retirement/death gratuity.

As present the payment of interest on delayed payment of gratuity is regulated under Board's letter of even number dated 3.9.79 and other orders issued from time to time.

2. It has been reported by certain authorities that in cases of retirement on superannuation, the work of assessment of the demands outstanding against them commences two years in advance whereas any other cases of retirement assessment of Government cues etc. can begin only after the retirement has been approved and have, therefore, raised a doubt whether the provisions of the orders quoted in Para 1 are also applicable to those who retired otherwise on superannuation and if so whether the time limit of three months is also to be observed in such cases. The position has been reviewed by the Government and it has been decided that if the payment of gratuity has been delayed due to administrative lapses for no fault of the retiring employees in cases of retirement other than superannuation the payment of interest may be regulated in the following manners:-

(1) In case of Railway servants against whom disciplinary / judicial proceedings are pending on the date of retirement and in which gratuity is withheld till the conclusion of the proceedings:-

मंडल रेल प्रबन्धक का कार्यालय
ब्रिजम रेलवे - भावनगर परा

26 JUL 1991

DRM'S OFFICE W. R.
BHAYNAGAR PARA

ce/sett
CPT
Di. sh.

95

- (a) In such cases if the Railway servant is exonerated of all charges and where the gratuity is paid on the conclusion of such proceedings, the payment of gratuity will be deemed to have fallen due on the date following the date of retirement vide Board's letter of even number dated 25.5.83. If the payment of gratuity has been authorised interest may be allowed beyond the period of three months from the date of retirement.
- (b) In cases where the disciplinary/judicial proceedings are dropped on account of the death of the Railway servant during the pendency of disciplinary/judicial proceedings, the payment of gratuity will be deemed to have fallen due on the date following the date of death and if the payment of gratuity has been delayed interest may be allowed for the period of delay beyond three months from the date of death.
- (c) In cases where the Railway servant is not fully exonerated on the conclusion of disciplinary/judicial proceedings and where the competent authority decides to allow payment of gratuity, in such cases, the payment of gratuity will be deemed to have fallen due on the date of issue of orders by the competent authority for payment of gratuity vide Board's letter of even number dated 3.9.79. If the payment of gratuity is delayed in such cases interest will be payable for the period of delay beyond three months from the date of issue of the above mentioned orders by the competent authority.

(ii) On Retirement other than on Superannuation

Such cases of retirement will be either under Rule 1802(a) - RII or Paras 312, 601, 608 and 620 of Manual of Railway Pension Rules and retirements under the Scheme of voluntary retirement of 1977. In such cases the pension sanctioning authority does not get adequate time for processing pension papers as is available to it in the case of retirement on superannuation. Instructions have also been issued from time to time that the service record of staff should be kept upto date and that the Personal Inspector who ensure that entries in service record are not allowed by Government more than one months beyond the current position. Instructions also exist that the service record book should be shown every year to the employee who is governed by Pension Rules and the signatures obtained is taken of having perused the entries in the service record with a particular reference to qualifying service. Instructions also exist to keep the leave record of the staff upto date. It is, therefore, expected that even in cases of retirement other than on superannuation, it should not take unduly long time for

SYOPSIS OF O.A. No. 293/1982

Shri H.R. Oza Vs Union of India, M.R. etc

(1) Date fixed for hearing 4-8-92.

Admitted on 4-8-92.

Written statement filed 17-12-92

Rejoinder filed 4-1-1993.

(2) Date of Superannuation. 30-6-1988

Date of Settlement dues paid

(A) Leave salary Rs. 28,668/- paid on 12-10-89

(B) D.C.R.G. Rs. 48,058/- - u - 12-10-89

(C) Commutation Value Rs. 1,35,093/- " 13-10-88

(3) Date representation submitted 20, Aug. 90. ^{A/6}
claiming interest.

Reminder sent on 6, Aug. 91 ^{A/7} &

Reminder 20, May. 91 Ann. ^{A/8}

Received reply dated 17.7.1991 ^{Ann. A/1} advising that
the case of payment of interest on delayed
payment of Settlement dues is under corres-
pondence with Head Quarter.

No payment of interest paid until date of
filing application.

Respondents issued letter 22-10-92 Ann. R
sanctioning interest Rs. 3,224/06 p.s. on delayed
payment of D.C.R.G. only for 11 months & 15 days. ^{@ 7%}

(4) Date of Retirement 30-6-1988.

Date of Charge-sheet for imposing minor
penalty dated 14-6-88 withdrawn on 28-6-88

Charge sheet dated 28-8-88 ^{for major penalty} Ann. ^{A/2}
sent/despatched
to applicant on 29-8-88.

Received by applicant on 31-8-88.

Respondents paid the Settlement dues
as stated above.

Period from - to	Leave Salary		D.C.R.G.	
	@ 15%	@ 10%	@ 15%	@ 10%
1-7-88 to 11-10-89	5202=40	3668=25	9224=05	6149=35

Period from - to	Commutation Value	
	@ 15%	@ 10%
1-7-88 to 12-10-88	5719=70	3813=15

<u>Summary</u>		<u>@ 15%</u>	<u>@ 10%</u>
Interest of Leave Salary		5202=40	3668=25
- " - D.C.R.G.		9224=05	6149=35
- " - Commutation Value		5719=70	3813=15
Total.		<u>20,146=15</u>	<u>13,630=75</u>
(-) Interest paid		<u>3,224=06</u>	<u>3224=06</u>

Net amount to be paid Rs. 16,922=09 ps. Rs. 10,406=69 ps.

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

AHMEDABAD.

Submitted:

C.A.T./JUDICIAL SECTION.

Original Petition No:

GA | 293 | 1992

of

1992

Miscellaneous Petition No:

of

Shri

Henshadrai R. Oza.

Petitioner(s)

Versus.

U.O.I. & Ors.

Respondent(s).

This application has been submitted to the Tribunal by

Shri

Xavier M.M.

Under Section 19 of the Administrative Tribunal Act, 1985.

It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunal Act, 1985 and Central Administrative Tribunals (Procedure) Rules, 1985.

The Applications has been found in order and may be given to concerned for fixation of date.

The application has not been found in order for the reasons indicated in the check list. The applicant Advocate may be advised to rectify the same within 14 days/draft letter is placed below for signature.

ASSTT:

S.O. (J):

D.R. (J):

KNP24492.

rockristian
16/7/92
for
14/7

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

APPLICANT(S)

Hansabhai R. Oza.

RESPONDENT(S)

V. V. I. 2000PARTICULARS TO BE EXAMINEDENDORSEMENT AS TO
RESULT OF EXAMINATION.

1. Is the application competent ?
2. (A) Is the application in the prescribed form ?
- (B) Is the application in paper book form ?
- (C) Have prescribed number complete sets of the application been filed ?
3. Is the application in time ?
If not, by how many days is it beyond time ?
Has sufficient cause for not making the application in time stated ?
4. Has the document of authorisation/ Vakalat Namah been filed ?
5. Is the application accompanied by D.D./I.P.D. for Rs. 50/- ? Number of D.D./I.P.D. to be recorded.
6. Has the copy/copies of the order(s) against which the application is made, been filed.?
- (a) Have the copies of the documents relied upon by the applicant and mentioned in the application been filed ?
- (b) Have the documents referred to in (a) above duly attested and numbered accordingly ?
- (c) Are the documents referred to in (a) above neatly typed in double space ?

Has the index of documents has been filed and has the paging been done properly ?

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

Yes

P.O. No 846874
13/3/92

PARTICULARS TO BE EXAMINED.

ENDORSEMENT TO BE RESULT OF EXAMINATION.

9. Have the chronological details of representations made and the outcome of such representation been indicated in the application ? *Yes*
10. Is the matter raised in the application pending before any court of law or any other Bench of the Tribunal ? *No*
11. Are the application/duplicate copy/copies signed. ? *Yes*
12. Are extra copies of the application with annexures filed ? *Yes*
 - (a) Identical with the Original.
 - (b) Defective.
 - (c) Wanting in Annexures
No. _____ Page NOs. _____ ?
 - (d) Distinctly Typed ?
13. Have full size envelopes bearing full address of the respondents been filed ? *Yes*
14. Are the given addressed, the registered addressed ? *Yes*
15. Do the names of the parties stated in the copies, tally with Name(s) those indicated in the application ? *Yes*
16. Are the translations certified to be true or supported by an affidavit affirming that they are true ? *Yes*
17. Are the facts for the cases mentioned under item No 6 of the application ? *Yes*
 - (a) Concise ?
 - (b) Under Distinct heads ?
 - (c) Numbered consecutively ?
 - (d) Typed in double space on one side of the paper ?
18. Have the particulars for interim order prayed for, stated with reasons ? *Yes*

KNP30192.

KJP
14.7.92

Interest on the amount of settlement
00st/245/92 benefits

Application under Section 19 of the Administrative Tribunal Act 1968

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL - AHMEDABAD BENCH

O.A. No: 293/1992.

Harshadrai Ratilal Oza.,
Bhavnagar

...

Applicant.

V/s

Union of India Western
Railway & others.

Respondents.

-; I N D E X :-

Sr. No.	Annexure	Details of Documents	Page No:
01.	-	Application.	1 to 7
02.	A/1	Copy of letter No: ET/789/5/88/H/235 17.7.'91	8
03.	A/2	" " " No: E T/308/88/102 28-06-1988	9
04.	A/3	" " Representation dtd. 18-07-1988	10 & 11
05.	A/4	" " " 19-08-1988	12
06.	A/5	" letter No: ET/789/5/88/H/235/ 1.2.'89	13
07.	A/6	" Rep. dtd. 20th Aug. 1990	14 & 15
08.	A/7	" " " 6th August-1991	16 & 17
09.	A/8	" " " 20th May-1991	18 & 19
10.	A/9	" D.O. letter Dtd. 10th Oct., 1988	20

BHAVNAGAR ;

DATE: 14 - 7 - 1992.

α Harshadrai R. Oza
Signature of the applicant.

Recd copy
R. M. Vani
14/7/92

Revised
on 14-7-1992
K. S. S. S.

(1)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AHMEDABAD BENCH

AHMEDABAD

O.A.No. _____/1992.

Harshadrai Ratilal Oza.,
Ex-Station Supdt., Dhola Jn.,
Bhavnagar Division of Western-
Railway Administration .

Residential Address :-

30, 'Divya-Arun',
Chandramauli Society,
Subhashnagar - BHAVNAGAR 1.

... Applicant.

VERSUS

- 1) The Union of India,
Owning & Representing Western Railway,
Through its General Manager,
Churchgate - BOMBAY - 20-
- 2) Divisional Railway Manager,
Western Railway, Bhavnagar -
Division- BHAVNAGAR PARA - 3.
- 3) Divisional Accounts Officer,
Western Railway, Bhavnagar Divn.
BHAVNAGAR PARA - 364 003.

... Respondents.

DETAILS OF THE APPLICATION

01. Particulars of the orders or action against which the application is made :-

The application is not against any specific order but its^{is} filed against the action of the respondents in not arranging the payment of interest on the delayed payment of settlement dues, as admissible and otherwise due to the applicant. The applicant is entitled to recover the amount of interest Rs. 17,739/- @ Rs. 15 % per annum, or alternately Rs. 12,631/- @ Rs. 10% per annum., which is accrued on the amount of the settlement dues withheld by the respondents without any authority of law and for reasons beyond the control of the applicant.

02. Jurisdiction of the Tribunal :-

The applicant declares that, the subject matter of the action against which, the wants redressal is within the jurisdiction of this Hon'ble Tribunal.

...2....

:: 2 ::

03. LIMITATION :

The applicant being entitled for the interest submitted representation requesting to arrange payment of the interest accrued. ~~No~~ final order has been issued till date. The respondent No: 2 has issued Reply No: ET/789/5/22/4/235 of 17-07-1991 (Annexure A/1) and has advised that the case for payment of interest on delayed payment of settlement dues is under correspondence with Headquarter on receipt of the decision of HQ office necessary actions will be taken. That nothing has been heard further. Thus the application has been ~~filed~~ filed within the time limit. If, however there is any delay the same may be condoned in the interest of justice.

04. FACTS OF THE CASE :-

4.1 The applicant was appointed in Railway Services, on 21-02-1949. He having attained the age of Superannuation (58 years) was retired on 30-06-1988 A.N). The applicant has served the Railway Administration for 39 years and has impeccable service record. The applicant submits that, a Standard Form of Charge-sheet dated 14-06-1988 for minor penalty - was ~~is~~ issued which was subsequently with-drawn as cancelled vide order dated 28-08-1988 (Annexure A/2).

4.2 The applicant declares that, he was holding any Railway quarter ^{nor} nor there was any claim in respect of commercial claim pending against him. However, as per the extant rules if no claim, as regards the commercial department is made within a period of six months of the date of retirement it should be presumed that, there is no claim.

...3...

4.3 That as per the extant instructions the Railway Administration is required to arrange payment of settlement dues on the Day of Retirement itself. The settlement due comprises of D.C.R.G. leave encashment, Provident fund Transfer and Packing allowance, Commutation of pension & Insurance amount etc. The instructions also exists that, where there is a delay in payment of settlement dues and the delay is for reasons beyond the control of the employee interest, @ 10% shall be payable from the date from ^{which} the amount ^{has} fallen due.

/hence The Rules provides that, only D.C.R.G can be with-held and/the provisions for payment of interest is made so far as the DCRG is concerned. There are catena of judgments, ~~xxx~~ whereby it is held that, ~~xxx~~ in case the amount of settlement dues has been with-held interest @ market rate is payable from the date following the date of retirement.

4.4 The respondents have with-held the amount of settlement dues on a erroneous grounds. The applicant therefore , submitted representation dated 18-07-1988 (Annexure A/3) and requested that, his settlement dues Rs. 1,27,500/- (Rs. @ 1,35,093/- actual) has been with-held causing loss of interest every month. He thereafter submitted further representation dated 19th August-1988 (Annexure A/4) which was addressed to Hon'ble Minister Shri P.Chidambaramji. ^{copies to respondents} The applicant received reply vide No: ET/789/5/88/H/235 dated 01-02-1989 (Annexure A/5), whereby the applicant was advised for the first time that, his settlement dues have been with held as there is major DAR pending . Thus the amount was with-held for reasons beyond the control of the applicant.

The applicant clarifies that, he was served with a charge-sheet dated 14-06-1988 for imposing minor penalty which was withdrawn on 28-06-1988(Annexure A/2), as detailed above. The applicant was thereafter sought to be served with a charge-sheet No: ET/303/88/112 dated 28-06-1988 for imposing major penalty on the same charge. The said charge-sheet was sent to applicant by Registered post on 29-08-1988 and was received by him on 31-08-1988 i.e. subsequent to his final date of retirement. The applicant, therefore, while acknowledging the receipt passed remarks that, he has since been retired and hence no action can be initiated that, no departmental Inquiry, pursuant to the charge-sheet has been held although a period of 4 years have lapsed . The respondents also arranged payment of with-held settlement dues as shown below :-

Leave Salary	Rs. 28,668/-	Paid on 12-10-1989.
D.C.R.G.	" 48,058/-	" " -do-
Commutation value	" <u>58,367/-</u>	" " 13-10-1988.
TOTAL	" 1,35,093/-	X

Since the amount of settlement dues has been paid the applicant has reasons to believe that, the caused for with-holding the amount no more exists.

- 4.5 The applicant is therefore entitled for the interest on with-held settlement dues for the period from 1.7.88 to 30-10-89 so far as the leave salary and DCRG are concerned and for the period from 1.7.88 to 30-10-1988 so far as the commutation value of pension is concerned. That as per the judgement of Supreme Court the applicant is entitled to get interest @ of market rate which works out to Rs. 14,817/- and Rs. 2,918/- respectively. Alternately the applicant to get Rs. 10,485/- & Rs. 1946/- respectively @ 10 % per Annum.

(4)

4.6 The applicant is entitled for the interest stated above. The applicant therefore, submitted representation dated (Annexure A/6) 20th Aug.1990/and requested for arranging payment of interest. The applicant received a interim reply dated 17-07-1991 (Annexure A/1) advising that, the matter is under correspondance with HQ office. The applicant thereafter submitted another representation dated 6th Aug.1991 and requested for early payment of interest the(copy of representation dated 9th Aug.1991 is at Annexure A/7) the said interim reply dated 17-07-1991 is in reference to the representation dated 20-05-1991 which is at(Annexure A/8).

That in terms of the reply dated 10-10-1988, the Dy.Secy., Department of Pension, the copy of which was endorsed to the applicant, it has been held that, the interest is payable on the delayed settlement dues as per rule. The said reply dated 10-10-1988 is at (Annexure A/9)

4.7 The action of the respondent is therefore discreminatory, prejudicial Malafied, in violation of principle of Natural Justice, & Articles 14 & 16 of Constitution of India

05: GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 The Government of India in terms of their Memo. Dated 28-07-1984 have laid down a policy that, interest @ 10% per annum be allowed on the delayed payment of Gratuity. It also provides that, the interest will be allowed only where it is clearly established that, the payment of settlement dues was delayed for the reason beyond the control of the Railway servant concerned. This policy has been circulated by the Railway Board in terms of their letter No: S/11179/PNI/15 dated 23-01-1987.

5.2 The Hon'ble Supreme court in the matter of State of Kerala and others Versus M.Padmanabhan Nair, (AIR-1985 P.No;356) have held that, pension and gratuity are no longer bounty

but a valuable right and property and any culpable delay in settlement must be visited with a penalty of payment of interest ~~xxxxxx~~ at the current market rate till actual payment.

5.3 It is a settled principle of law that, the payment of settlement dues is a matter routine and automatic.

06; DETAILS OF THE REMEDY EXHAUSTED:

The applicant had submitted ~~representation~~ represented ^{tion} dated 20-Aug.1990 (Annexure A/6). Representation dated 20.5.91 (Annexure A/8) & 6th August-1991 (Annexure A/7) but no final reply has been communicated till date. That as per the extant rule there is no provision for submitting any ^{affcal} reply etc., .

07. MATTERS NOT PREVIOUSLY FILED/OR PENDING WITH ANY OTHER COURT :-

The applicant declares that, no matter relating to subject matter of this application is pending before any court or any other authority or any other bench of Tribunal nor any such matter was filed in the past.

08. RELIEF/S SOUGHT :

In view the facts and the legal position mentioned above, the applicant prays for the following relief/s.

a) Your lordships be pleased to hold that the applicant was entitled to receive payment of settlement dues on 1.7.'88 but there was delay in the payment for reasons beyond the control of the applicant and hence he is entitled to receive the amount of interest Rs. _

i) Towards ~~xxxx~~ the amount of leave salary & DCRG Rs.14,817/- upto 31-10-1989 & Rs. 2918/- towards commuted value of pension upto 31-10-1988 @ 15% per annum along with cumulative interest until date of payment, ⁷

ii) Rs. 10,

7....

ii) Towards the amount of leave salary and DCRG Rs.10,485/- upto 31-10-1989 and Rs. 1946/- towards commuted value of pension upto 31-10-1988 both @ 10 % per annum alongwith cumulative interest until the date of payment. And further direct respondents to arrange the payment of dues.

b) Your lordships be pleased to grant any relief/s that may be considered to be just and proper in the circumstances of the case.

09. INTERIM RELIEF :

In the circumstances stated above, the applicant submits that no relief is prayed.

10. The applicant desires to have oral hearing at the time of admission.

11. Particulars of the Postal order.:

In respect of application fee :-

P.O.No: & DATE 84 6874 dt 18.7.1992

Issued by :- G.P.O.- Bhavnagar.

List of Enclosures :- 1 Index, Postal order, Vakalatnama, 2 Envelopes.

Harshadrai R. Oza
Signature of the applicant.

VERIFICATION

I, Harshadrai Oza, Son of Shri Ratilal Oza., since retired, Aged 62 years, residing at Bhavnagar do hereby verify that, the contents paras 1 to 12 are true and correct and I believe the same are to be true and I have not suppressed any material facts.

- 07 -01992

BHAVNAGAR

DRAFTED BY ME :

Xavier M. Mascarenhas

(XAVIER M.MASCARENHAS) - Advocate Bhavnagar.

Filed by Mr. M. M. Xavier
Learned Advocate for Petitioner
with second set & 1000/- stamp
copies copy served/returned to on the
14/7/92
By Registrar C.A.T.O. MJD
A True Copy

(8) (cb)
Annexure A/ 1

W.R.

No:ET/789/5/88/4/235

Dated 17/7/1991.

From : DRM-(E)-BVP.

To: Shri H.R.Q za., 30-'Divya-Arun', Chandramauli Society, Subhash-Nagar - Bhavnagar .

Sub : Delayed payment of settlement dues.

Ref : Your representation dated 20-05-1991 addressed to GM-(E)-CCG.

.....

In reference to your above quoted representation you are informed that the case of payment of interest on delayed payment of your settlement dues is under correspondance with HQ office. On receipt of the decision of the HQ office, necessary action will be taken by this office.

Sd/-

for DRM-(E)-BVP.

True copy attested by me,



Advocate for the applicant.

9 (a)
Annexure A/2

WESTERN * RAILWAY

No: ET/308/88/102.

DRM's Office,
Bhavnagar Para.
Date: 28-06-88.

To:

Shri H.R.Oza,
SS - DLJ.

(THROUGH TI/BVP) .

SUB : DAR case of NG staff - Traffic Deptt.

REF : SF 11 No: even dated 14-05-1988.

.....

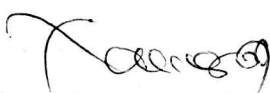
In superssion of this office SF-11 of even No:
dated 14.06.88 served to you is hereby withdrawn with rights
of Administration to review the case.

Sd/-

(R.D.Sharma) ,
DOS-BVP.

Copy to : TI/BVP.

True copy attested by me,


Advocate for the applicant.

From :- H.R.Oza., Esqr.,
Ex-SS/DLJ.,
30, Divya-Arun,
Chandramauli Society,
Subhashnagar,
Bhavnagar- 364 001.

BHAVNAGAR
Date: 18/7/1988-

To: The General Manager,
Western Railway,
Churchgate, Bombay .
C/- FA & CAO- CCG.

Subject : Retirement benefits - Non payment of...

...

Sir,

I have retired under age limit on 30-06-1988 A.N. but to my UTTER SUPRISE, no payment other than subscription to P.F. and Insurance has been arranged as yet without any intimation nor reasons assigned thereof.

The following retirement benefits which have become due to me on 01-07-1988 may please be ordered to be paid with the least possible delay as laid down under the extent rules and regulations.

01. Commutation of Pension amounting to Rs. 50,000/- approximately
02. Transfer & packing allowance amounting to Rs. 3,500/-"
03. Leave encashment amounting to Rs. 27,000/- approximately.
04. DCRG amounting to Rs. 47,000/- approximately.

The total dues as above comes to Rs. 1,27,500/- (One lac twenty seven thousand five hundred approximately) on which I am a loser of interest at 12 per cent viz., Rs. 1,280/- per month (One thousand two hundred eighty only) and is being paid by the Government on Savings in Post offices and on Provident Fund subscription by the Railways and other Government Departments.

Incidentally, it is also pointed out that I have vacated the Railway quarter and that there are no Railway recoveries against me, which may warrant keeping any deposit from DCRG. However as per prevailing practice, not more than 10 per cent of DCRG can be retained as deposit that too for 90 days for 'No debit' certificate from Dy-CAO (TA) -All.

I would therefore, request that all the above payments (retirement benefits) should be paid to me with the least possible delay so that I am not thrown to seek the recourse after putting in FOURTY YRS OF such a long and faithfully service.

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A reply in a line is awaited.

Yours faithfully,

Sd/-

(H.R. Oza.,)

Copy to :

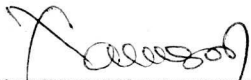
D.R.M.(E) -BVP X For favour of expediting the payment as mentioned

D.A.C -BVP X above.

L.E.C -Rajkot

Div.Sec.,/WRMS-Rhavnagar, for favour of doing needful in getting justice as retirement benefits narrated above are part of 'PENSION' and are required to be paid on the date such payments become due viz., the date of retirement under age limit; i.e. 01-07-1988.

True copy attested by me,



Advocate for the applicant.

.....

From: H.R.Oza.,
Ex-SS-DLJ
30, Divya Arun,
Chandramauli Society,
Subhashnagar - BHAVNAGAR - 364 001.

12 (2)
Annexure A/4
Bhavnagar : Dt: 19th Aug.1988

To: Respected P.Chidambaramji,
Honourable Minister of State,
Ministry of Public Grievances,
Government of India,
NEW DELHI.

Hon'ble Sir,

I would not have told upon your previous time but for no response as yet to my representation dated 18-07-1988 put up to D.R.M.(E)-Bhavnagar Para and others. Copy of the said representations, which is self explanatory is enclosed for ready reference. I have retired from 30-06-1988 under age limit and no payment except towards subscription to P.F. and Insurance has been paid. No reasons for my non-payment of the dues mentioned in the application dated 18-07-1988 have been communicated nor any advice to my aforesaid representation is given. I have served the Railway for more than 40 years without any blot not even an adverse C.R & therefore, I urge upon your self to kindly 'intervene' and pass communication/Orders to DRM-(E)-Bhavnagar Para to settle immediately the retirement benefits to the tune of rupees one lac twenty-seven thousands approximately.

I again beg your pardon and request to move the above matter with the concerned authorities.

Encl: one.


Yours faithfully,

Copy to :

Sd/-
(H.R.OZA).

1. General Manager., W.Rly., Churchgate - Bombay,
2. FA & CAO-CCG,
3. DRM-(E)-BVP & DAO-BVP for favour of doing need ful .

True copy attested by me,



Advocate for the applicant.

13
K3
annexure A/ 5

W.R.

No: ET/789/5/88/4/235

Dated: 01-02-1988.

From :- DEM-(E)-BVP

To: Shri H.R.Oza, 30, Divya Arun,
Chandramauli Society, Subhash-
Nagar - Bhavnagar.

SUB ; With-holding of DCRG & Leave encashment.

.....

As there is a major DAR case is pending against you,
involving of Rs. 69,000/- the complete DCRG and leave encashment
amount is kept pending from your retirement benefits .

This is for your information please.

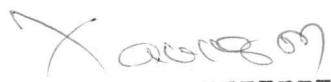
Sd/-

for DPO-BVP.

Copy to :

Secretary WRMS -BVP.

TRUE COPY ATTESTED BY ME,



Advocate for the applicant.

.....

From : H.R. Oza,
Retired SS-DLJ.

14 (14)
ANNEXURE A/6
30, Chandramauli Society,
Subhashnagar -
Bhavnagar .

20th AUGUST-1990.

To:

The Divisional Railway Manager,
Western Railway,
BHAVNAGAR PARA.

SUB ; Delayed payment of Settlement dues - claim for payment of
interest thereon -

Respected Sir,

With deep depression over the recurring loss of interest due to delayed payment of my settlement dues, I am rather compelled to approach your honour despite your pretty many occupations for a benevolent and an expeditious considerations.

2. I retired as SS/DLJ, under age limit on 30-06-1988. No DAR case was pending against the undersigned on that date. For the DAR proceedings emanated even thereafter, I am deemed to have been totally absolved of the charges/allegations, ~~I am deemed to have been~~ as nothing adverse has so far been advised and no penalty has been imposed. By my continuous and sincere approach and efforts with the concerned authorities, I sincerely feel that I am completely conerated of the imputations and hence innocent in the DAR episode. So that, as it may.

3. I submit below the dated details of some of the settlement dues paid to me inordinately late by the Railway Administration:-

Sr.No;	Nature of Dues	Amount	Date of Payment.
1.	Leave salary	Rs. 28,668/-	12-10-1989.
2.	D C R G	Rs. 48,058/-	12-10-89.
3.	Commuted value	Rs. 58,367/-	12-10-1989.

4. Besides the above, my packing charges etc., have also been disbursed very late. Immediately after my retirement, I had been constantly submitting representations and regularly reminding the concerned offices for expediting payment of my settlement dues as
...2.....

quickly as possible. I was also hinting at the avoidance of possible payment of interest on the settlement dues from time to time in all my such applications. ~~Till~~ I received the cheques I was voicing this aspect of payment of interest charges on the delayed ^{payment. There is no favouring mine if delayed} action was taken to pay the settlement dues by the related authorities. I also submitted an application to the Department of pensionsetc., New Delhi. I enclose a copy of the reply issued in their D.O. letter No: 30/90A(10)-P&PW(F) dated 10-10-88 to the Executive Director (PG), Rly., Board, New Delhi, wherein it has been clearly stated that in case of delayed payments of settlement dues interest charges as per the extent orders are payable to me. Even after payments of the above dues, I have submitted applications for payments of interest due, but to me avail,

05. In view of the foregoing, I earnestly ~~request~~ request your kind honour to issue orders for the expeditious payments of interest charges due to me as early as possible for which act of generosity I shall be forever remains grateful to your honour.

Awaiting an expeditious and a favourable response.

Yours faithfully,
Sd/-
(H.R.OZA),

* Copy submitted is Shri Ashok Malhotra, Ex.Director(PG) Rly.Bd., New Delhi kindly unlervene for expeditours payment of due interest charges as admitable. * Copy submitted To: Mr. M.R.Vaidya, Dy.Secy., Dept.of Pensions, Nirvachan Sadan, New Delhi. He is requested to the Rly.authorities to expedite payments of interest charges as the tome. * Copy submitted to Gen-(E)-CCG at for kind information personal it is need that here any instruction issued to DPM for managing payment of interest drone to me all emidently as formile.
TRUE COPY ATTESTED BY ME,

X
Advocate for the applicant.

....

Annexure A/7

From :

H.R.Oza,
 AS-Dhola Junction (Retired),
 30, Divya Arun,
 Chandramauli Society,
Subhashnagar - BHAVNAGAR - 364 001.

6th August, 1991.

To:
 Shri M.R.VAIDYA,
 Dy.Secretary,
 Department of Pensions,
NEW DELHI.

SUB : Delayed payment of settlement dues - claims for payment of interest charges.

REF : Your letter No: P/PW/FC-344147/1991 dated 10-07-1991 to Executive Director, Railway Board, New Delhi & copy to me.

Dear Sir,

In deep frustration over continued loss of interest on my hard-earned monies, I further submit as under for an expeditious and a judicious consideration.

2. Whereas, I am grateful for pursuing my above claim with the Ministry of Railways. I submit that, I have been representing my case since August, 1988 but no one either Ministry of Railway or my Headquarters office in Bombay is worrying the least, though copies of my all representations are correctly forwarded to the Executive Director, Railway Board, by name as well as the General Manager, Western Railway - Bombay.

3. In the last sentence of para 2 of your above, your office has mentioned about DCRG, whereas, I have been paid inordinarily late my all bulk ~~where~~ dues of Leave Salary and commuted value of Pension as well. These two also form a part of Settlement Dues. and I should be paid interest for all these payments made late for no fault of mine.

4. DRM, Western Railway, Bhavnagar Para, has recently advised to me vide his letter No: ET:789/5/88/4/235 dated 17-07-91 that my case is under correspondance with HQ office. It is a pity that even after a spell of over three years my case is not still finalised, and that it moves a snail's pace, and loss

...2....

increases at each passing day, apart from the mental frustration caused to a retired employee. In reality, a very injudicious deal is matted out me by those working in all officies in the Railway System. I am still not advised the exact sum that is being proposed to be paid to me. I am enormously sad and totally defected that Railway Ministry in New Delhi is not at all moving anything in this regard.

I therefore, prayerfully urge your kind Honour to prevail upon all the concerned authorities to finalise my case as quickly as possible and ensure that payment of interest charges for all the delayed payments of Leave Salary, commuted value of ~~pension~~ pension is remitted to me without further delay. Awaiting an expeditious and favourable response.

Yours sincerely,

Sd/-

(H.R. OZA,)

Copy submitted to :-

Shri Ashok Mitra, Executive Director, Rly. Board - New Delhi,
General Manager, Western Railway - CCG.
Divisional Railway Manager - W.Rly., Bhavnagar Para.
Divisional Accounts Officer - W.Rly., " "

..... It is urged that my case may kindly be settled as early as possible as over three years have lapsed since submitted my claim during August 1988, with the appropriate authorotoes at all places.

True copy attested by me,



Advocate for the applicant.

From :
H.R.Oza.,
SS-DIJ (Retired),
30, 'Divya-Arun',
Chandramauli Society,
Subhashnagar- BHAVNAGAR-1

Date: 20th -May, 1991.

To:
SHRI M.V.SHRINIVASAN,
General Manager,
Western Railway,
BOMBAY-

SUB : - Delayed payment of settlement dues claim for payment of interest charges.

Respected Sir,

In sheer depression over the continued loss of interest due to me on my settlement due: I am again submitting this appeal for an expeditious and judicious consideration:-

2. I have submitted applications earlier on the above subject on 20-08-90 to DRM-BVP and on 15-10-1990 to your Honour. I regret to submit that no response is forthcoming from the local Admn., as well as from your office through over 9 months have elapsed.

03. For your Honour's kind perusal, I relate my sorry tale as under :-

04. I retired on 30-06-88 on reaching the age of superannue. No DAR case was pending on that date for the DAR proceedings initiated thereafter. I am exonerated of the charges as all settlement dues were paid to me. I am giving the details of payments made to me here below :-

Sr.No:	Name of dues	Amount	Date of Payment
1.	Leave Salary	Rs. 26,668/-	12-10-1989.
2.	DCRG	Rs. 46,058/-	12-10-1989.
3.	Commuted value	Rs. 58,367/-	13-10-1988

04. Besides the above packing ~~and~~ charges due to me have been remitted inordinately late.

05. I had submitted several representations to DRM-BVP immediately after my retirement, but to no avail, for no apparent fault of mine. Payment of settlement dues has been made very very late. In terms of Board's orders I am due payment of interest charges ~~xx~~ for the delayed payment of my settlement dues: but all my requests of have fallen on deaf ears. Nothing moves in the local office. I have made personal contacts in the dealing section but to no avail.

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06. I therefore request your Honour to have the issue examined at your office and issue necessary instructions to local administration to expedite payment of interest as due to me for which I shall remain immensely thankful to your Honour.

In the meanwhile thanking your Honour and awaiting an expeditious and a positive response.

Yours sincerely,

Sd/-

(H.R. OZA),

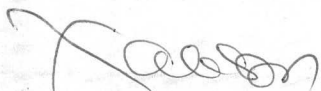
Copy submitted to :-

- (1) Shri S.R. Bahadur, DRM-BVP.
- (2) " Ashok Malhotra,
Executive Director,
Railway Board, New Delhi,
- (3) " M.R. Vaidya,
Deputy Secretary,
Department of Pensions,
New Delhi.

Applications dated 20-08-1990 & 15-10-1990 were endorsed to your Honour, but nothing tangible has been emanated. It is requested to look into my old case and issue necessary instructions for expediting payment due to me.

.....

True copy attested by me,



Advocate for the applicant.

...

M.R.Vaidya,
Deputy Secretary,
Tel.No: 386971

10.10.88

Deptt. of Pension & PW
New Delhi,

.....

D.O.No: 38/90A(10)/88-P&PW(F),

Dear Shri Malhotra,

I am forwarding herewith, in original representation dated 18.8.88 from Shri H.R.Oza, retired as S.Supt., from DRM-(E)-Bhavnagar on 30-06-1988.

2. I shall be grateful if you kindly look into the grivence of the pensioner for delayed payment of retirement benefits., If the payment of retirement gratuity has actually been delayed for no fault of the retiring employee, you may kindly consider paying suitable interest as provided under the rules and also fix the responsibility on the person concerned for the delayed payment.

With regards

Yours faithfully,
Sd/-


(M.R.VAIDYA),

Shri Ashok Malhotra,
Executive Director (PG),
Railway Board, Rail Bhavan,
NEW DELHI.

Copy to : Shri H.R.Oza., 30-Divya Arun, Chandramauli Society, Subhash-Nagar - BHAVNAGAR - 364 001.

Sd/-
(M.R. VAIDYA),

True copy attested by me,


Advocate for the applicant.

Before the Central Administrative Tribunal at Ahmedabad

O.A. No.293/92

HARSHADRAI R. OZA - Applicant,

V/S

UNION OF INDIA & OTHERS -

Respondants

Respondents 1 to 3 as shown in this O.A., file their written statement to the applicant's application as under.

1. That the application is misconceived, time barred and otherwise also untenable in law.
2. That the Railway Administration does not admit the truth or correctness of any statement, averment, allegation, contention or suggestion set out in the application unless the same is expressly and specifically admitted in this reply.
3. Without prejudice to the above, respondent Railway Administration files ^{the} reply as under.
4. In para 1 of the application, applicant failed to Quote a specific orders of Administration against which application is filed, hence the present application becomes baseless and hence to be rejected. Further it is stated that the amount of interest as claimed by the applicant is also not admissible as per rules, hence, not admitted.
5. Contents of para 29 of application need no remarks being formal.
6. IN para 3 of the application it becomes ample clear that present application is time barred as per the provision of Sec.21 of Administrative Tribunal Act. Moreover the applicant failed to file the separate application for condoning delay giving the reasons of delay of day to day. Accordingly the same is worth of ~~its~~ etc rejection on the point of limitation.

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2104040/92

Res
17/12

Shri RMW
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7. Referring to the Contents of para 4(1) it is stated that applicant has tried to conceal the fact. The Minor penalty Charge Sheet was withdrawn with clear mention in letter No. ET/308/88/102 of 28.6.88 (Annexture A/2) that Administration has right to review the Case.
8. Contents of para 4(2) need no remarks, being formal.
9. Contents of para 4(3) is misguiding one and hence not accepted. It is clarified that settlement dues can be paid on the date of retirement provided these are not heldup due to the reason like pending Major disciplinary action etc. Here annexture A/5 of applicant is a bare proof of pending Major Dicipinary action against applicant, wherein ^{shown} ~~it is~~ a clear fact that there is an involvement of Rs. 69000/- in the matter, lead the Major disciplinary action against applicant.

In regard to the payment of interest, it is clarified that the rules provides to pay interest on delayed payment of DCRG only, the administration has initiated action to obtain sanction of the competent authority for payment of interest and finally sanction has been received vide letter

' R' No. E/S/789/10/8 of 22.10.92 (Annexed here to the True Copy of the same and marked 'R') which in turn passed the same to Divisional Accounts Officer Bhavnagar Para vide No. ET/789/5/88/H/235 of 30-10/2-11-92 for arranging

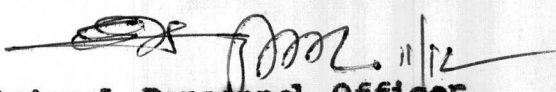
' R/1' payment (Annexed here to the True Copy of the same and marked R/1).
10. Referring to the contents of para 4(4) it is stated that, There was the involvement of Rs.69000/- and Major DAR was pending accordingly. Thus applicant him self is responsible for causing the settlement dues withheld. Further it is clarified that the minor penalty chargesheet was withdrawn vide letter dt.28.6.88 with clear mention that the administration will have the right to review the Case and accordingly Administration has served major penalty Chargesheet. Thus it is not correct to say that

// 3 //

- no action can be taken against applicant after retirement.
11. Referring to the contents of Paras 4(5) & 4(6) it is Once again clarified that an amount of Rs.3224-06Ps have been released for payment, as rules provides for payment of interest on delayed DCRG Only.
 12. Contents of para 4(7) is not correct and hence denied.
 13. The rules provides for payment of interest on delayed payment of DCRG only and accordingly a payment of Rs. 3224.06Ps has been passed, contents of para 5(1)(2)(3) are not correct and hence not accepted.
 14. Referring to the contents of para 6 of the applicant it becomes clear that final reply of Rly. Admn. in response to applicant's representation(Ann.A/6, A/7 & A/8) are still pending hence remedies are still not exhausted. Accordingly present O.A. becomes baseless & work of etc rejection.
 15. In view of the above it becomes ample clear that applicant's application is not reasoned, not ^{just} fast and not legal hence no relief to be granted to him but the same to be dismissed.
 16. Responent Railway Administration ^{graves} gives leave to add, alter amend, modify or correct this reply as and when required in future.

Bhavnagar Para,
Dt./ /12/1992.

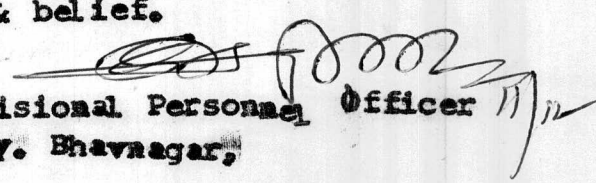
On and behalf of Union of India


Sr. Divisional Personnel Officer,
Western Railway-Bhavnagar Division,
Bhavnagar Para.

V E R I F I C A T I O N

I, Ravindra Kumar, Sr.Divisional Personnel Officer W.Rly. Bhavnagar Para do hereby solemnly ~~app~~ affirmation that what is stated above in para 1 to 16 above is ^{pastured} gathered from the official records to which I am conversent, and I say that same to be true to the best of my knowledge & belief.

Bhavnagar Para,
Dt./ /12/92.


Sr.Divisional Personnel Officer
W. Rly. Bhavnagar,

Annexure "R"

WESTERN RAILWAY

No. E(S)789/10/8

Headquarter Office,
Churchgate, Bombay-20,
Dated 22/10/92.To,
DRM(E)BVP.Sub:-Payment of intrest in delayed payment of
DCRG - Case of Shri H.R.Oza, Ex.SS-DLJ BVP
Division -Retired on 30.6.88.Ref:-Your Office letter No.ET/789/5/88/H/235
dated 26.8.92.

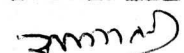
The General Manager has accorded sanction for the payment of intrest amounting to Rs.3224.06 on delayed payment of DCRG in favour of Shri H.R.Oza, Ex.SS-DLJ BVP in terms of Board's letter No.F(S)III PN 1/15 dated 23.1.87.

Necessary action may please be taken early and advise to this office, details of the payment i.e. CO6, CO7 No. at an early date.

Sd/-
for General Manager(E)

TRUE-COPY

=====



सहायक कार्मिक अधिकारी,
पश्चिम रेलवे, भावनगर पंरा.
Assn. Personnel Officer,
W. Ry. - Bhavnagar Pnr.

Annexure "B"

WESTERN RAILWAY

Headquarter Office,
Churchgate, Bombay-20,
Dated 22/10/92

No. E(2)789/10/8

To,
DRM(E) BVP.

Sub:- Payment of interest in delayed payment of
DCRG - Case of Shri H.R. Oza, Ex. 22-DLJ BVP
Division - Retired on 30.6.88.
Ref:- Your Office letter No. ET/789/5/88/H/235
dated 26.8.92.

The General Manager has accorded sanction for the
payment of interest amounting to Rs. 3224.00 on delayed payment
of DCRG in favour of Shri H.R. Oza, Ex. 22-DLJ BVP in terms of
Board's letter No. E(2)111 PN 1/15 dated 23.1.87.

Necessary action may please be taken early and advise
to this office, details of the payment i.e. CDD, COT No. at
an early date.

24/-
for General Manager(E)

TRUE-COPY

For and on behalf of
The General Manager,
Western Railway,
Churchgate, Bombay-20.

Annexure "R/1"

No. ET/789/5/88/11/235.

DRM's Office,
Bhavnagar Para.
Dt. 30/10/92.
2/11/92.

To,
The DAO/BVP.
=====

Sub: - Payment of intrest in delayed payment of
DCRG -Case of Shri H.R.Oza. Ex.SS-DLJ BVP
Division -Retired on 30-6-88.

Ref: -1) HQ Office letter No.E(S)789/10/8 dated
22/10/92.

2) Your case No.D/BVP/Pen/3665.

GM(E)CCG has accorded sanction for the payment
of intrest amounting Rs.3224.06 on delayed payment of
DCRG in favour of Shri H.R.Oza Ex.SS-DLJ BVP Division in
terms of Board's letter No.F(E)III PN 1/15 dated 23/1/87.
(Copy enclosed) as against the vetted amount of Rs.3375.48
by DAO/BVP on file No.ET/789/5/88/11/235 dated 24.8.92.

In view of the above it is requested to kindly
release Rs.3224.06 in favour of Shri H.R.Oza.

Sd/-
for Sr.DPO/BVP.

Encl: -Copy of letter No.
F(S)789/10/8 dt. 22/10/92.

TRUE - COPY
=====

सहायक कार्मिक अधिकारी
पश्चिम रेलवे भावनगर परा.
Asstt. Personnel Officer,
V. Rly. - Bhavnagar Para

DRM's Office,
Bhavanagar Park,
Dt. 30/10/92.
22/11/92.

No. ET/789/5/88/11/235.

To,
The DAO/BVP.

Subj:- Payment of interest in delayed payment of
DORG - Case of Shri H.R.Oza, Ex. 22-DLJ BVP
Division - Retired on 30-6-88.
Ref:- 1) HQ Office letter No. E(2)789/10/3 dated
22/10/92.
2) Your case No. D/BVP/Pen/3665.

GM(E)CCG has accorded sanction for the payment
of interest amounting Rs. 3224.06 on delayed payment of
DORG in favour of Shri H.R.Oza Ex. 22-DLJ BVP Division in
terms of Board's letter No. F(E) III PN 1/15 dated 23/1/87.
(Copy enclosed) as against the vetted amount of Rs. 3375.48
by DAO/BVP on file No. ET/789/5/88/11/235 dated 24.8.92.

In view of the above it is requested to kindly
release Rs. 3224.06 in favour of Shri H.R.Oza.

24/-
for Sr. DPO/BVP.

Encl:- Copy of letter No. 4
F(2)789/10/8 dt. 22/10/92.

TRUE - COPY

DRM's Office,
Bhavanagar Park,
Dt. 30/10/92.
22/11/92.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AHMEDABAD BENCHAHMEDABADO.A.No: 293/1992Harshadrai Ratilal Oza,
Bhavnagar.

Applicant.

VERSUS

Union of India, Western Railway
and others.

Respondent.

--: REJOINDER :-

1. The applicant herein, pray to submit that he has read the reply filed by and on behalf of respondents and state that the same is evasive, misconstrued and misconceived. The contention, statements, averments, allegations etc., made are not admitted to be true. The contents of reply be considered as not admitted unless the same are admitted in the premises of this rejoinder.
2. The applicant submits that the present OA has already been admitted after considering the impugned action and ~~after considering the impugned action~~ and after hearing on the point of limitation that otherwise also the contents of reply paras 4 & 6 are baseless.
3. The short point at issue is that the applicant retired on 30-06-1988 and on the date of the retirement there was no minor ~~or~~ nor major Disciplinary Procedure pending. The respondents who had issued a charge-sheet for imposing major penalty sent by Reg.A.D. post, to the applicant on 29-08-1988, and was received by him on 31-08-1988. The chargesheet, having been issued after applicant had retired, it was not sustainable and hence was admittedly cancelled by the respondents. The respondents in the reply have admitted that there was delay in arranging payment of the settlement dues but have refused to pay interest on settlement dues except the amount of DCRG. It is not

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the case of the respondents that the amount of settlement was withheld as per the decision taken by the Competent Authority at the relevant time for with-holding the settlement dues at least no such order was communicated to the applicant.

2. It is not admitted that the correct amount of interest ~~Rs. 3224.06/-~~ has been paid against the amount of interest for the delayed Gratuity. The interest is payable on ~~the~~ all the amount withheld and not only on the amount of Gratuity. It is not true that applicant himself is responsible for causing settlement withheld, as alleged. It is not true that as final reply is pending the remedy is not exhausted as alleged. An application before the Tribunal is maintainable if no final reply is received ~~is~~ within a period of 6 months and the respondents are stopped from raising such issue. Rest of the contentions are not admitted to be true.

BHAVNAGAR :

DATE : 4 - 1 - 1993

Harshadrai R. Oza
Signature of the applicant.

VERIFICATION

I, Harshadrai, Son of Shri Ratilal Oza, occupation since retired, Aged 62 years Residing at Bhavnagar, do hereby verify that the contents of the rejoinder are true and correct and that I have not suppressed any material facts.

BHAVNAGAR :

DATE : 4 - 1 - 1993

Drafted by me,

X (Signature)

Advocate for the applicant.

Harshadrai R. Oza
Signature of the applicant.

Reply/Rejoinder/written submissions
Filed by Mr. M. M. Xavier, Esq.
Learned advocate for respondent
Respondent with see and set off
Copy served, not served on other side

4/1/93 By Registrar C.A.T. (D)
A'bad Bench

MAL/ST/8/94

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD

~~O.A./T.A./M.A./B.A./C.A.~~ No. 547/94 in 04/293/92

MR. H.R. 029
APPLICANT (S)

MR. M.M. Xavier
COUNSEL

VERSUS

U.O. 1.3.00
RESPONDENT (S)

MR. P.M. Vin
COUNSEL

DATE	OFFICE REPORT	ORDER
	Early Hearing	
<div style="text-align: center;"> <p>DO</p> <hr/> <p>15-11-94</p> </div>		

ms-9/528/94

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

AHMEDABAD BENCH

AHMEDABAD

M.A.No: 547/1994

IN

O.A.No: 292/1992

Harshadri Ratilal Oza,
BHAVNAGAR :

...

Applicant.

VERSUS

The Union of India,
Western Railway &
Others.

...

Respondents.

The applicant herein has filed the present application Inter-a-lia praying therein that he has retired from Railway Services with effect from 30-06-1988. The Railway Administration howeverwith-held, large amount of settlement dues. The amount has been released after long delay. Therefore the applicant has prayed for the interest admissible as per rules.

The applicant has already retired from service on 30-06-1988. The Railway Respondent Railway Administration have filed the written statement and the applicant has filed the rejoinder. Thus, the matter is ready for final hearing.

Filed by Mr. M. M. Jaiswal
Learned Advocate for Petitioner
with second set of copies. Copies
copies copy served/not served to
other side

Dr. 21/10/94 By Registrar C.A.T.O.
Ahmedabad Bench

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It is therefore prayed that :-

Your lordships be pleased to grant the present M.A.
and fix early date of hearing in the interest of
Justice.

BHAVNAGAR :

DATE 20 -10-1994.

X Harshadrail R. Oza
Signature of the applicant,

VERIFICATION

I, Harshadrail Oza, Son of Shri Ratilal Oza, Aged,
63 years, occupation since retired, residing at
Bhavnagar do hereby verify the contents of this
M.A. and have not suppressed any material facts.

BHAVNAGAR :

DATE : 20 -10-1994.

X Harshadrail
R. Oza
Signature of the applicant.

Drafted & identified by me,

Xavier M. Mascarenhas
(Xavier M. Mascarenhas),
Advocate for the applicant
BHAVNAGAR.

20/10/94

Submitted.

Application has been scrutinized and found
to be in order. May be placed before Hon'ble
Bench for necessary orders.

20/10/94

20/10/94

20/10
S.D.J.
D.D.J.