

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.522 OF 1996

Cuttack, this the 5th day of March, 1999

M.KRISHNA RAO ..... Applicant

Vrs.

UNION OF INDIA AND OTHERS .... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? *Yes*,
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *No*.

*L.*  
(G.NARASIMHAM)  
MEMBER (JUDICIAL)

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN *S.3.93*

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**CORAM:**

**HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN  
AND  
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)**

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M.Krishna Rao,  
Retired Sr.Clerk,  
D.No.29-17-11/1,  
Jail Road,  
Near Ramalayam,  
Visakhapatnam-530 020       .....       Applicant

Applicant appeared in person.

Vrs.

The Union of India, represented by

1. The General Manager,  
South Eastern Railway,  
Garden Reach, Calcutta-43.
2. The Chief Administrative Officer (P),  
South Eastern Railway,  
Chandrasekharpur,  
Bhubaneswar.
3. The Deputy Chief Personnel Officer (Construction),  
South Eastern Railway,  
Chandrasekharpur,  
Bhubaneswar.
4. The Chief Electrical Engineer (Construction),  
South Eastern Railway,  
Bhubaneswar.
5. The Divisional Railway Manager,  
South Eastern Railway,  
Waltair.
6. The Senior Divisional Accounts Officer,  
South Eastern Railway,  
Waltair       .....       .....       Respondents  
Advocate for respondents- Mr.Ashok Mohanty

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SOMNATH SOM, VICE-CHAIRMAN

In this application under Section 19 of Administrative Tribunals Act, 1985, the petitioner has prayed for payment of interest at 18% per annum on the delayed payment of pensionary benefits along with package allowance.

2. The case of the applicant is that he joined Indian Railways on 10.1.1973 and voluntarily retired on 30.9.1994. He submitted three months advance notice for voluntary retirement on 30.6.1994 while working under Chief Electrical Engineer (Construction), S.E.Railway, Bhubaneswar. But the retirement notice was issued in O.M. dated 17.10.1994 retiring him with effect from 30.9.1994. Immediately after retirement, he should have been paid his pensionary dues, but payment was delayed. The applicant filed two representations on 11.11.1995 and 6.3.1996 followed by a legal notice on 13.5.1996 for payment of interest, but no action was taken. That is how he has come up in this application with the prayers referred to earlier. The details regarding interest and package allowance have been mentioned by the petitioner in Annexure-II.

3. Respondents in their counter have stated that after his retirement on 30.9.1994 the applicant submitted all his pension papers on 28.10.1994. The applicant was holding a lien in the post under the Waltair Open Line Division and therefore, the settlement of retirement dues was dealt with by in Waltair Division by Senior Divisional Personnel Officer and Senior Divisional Accounts Officer. Earlier he had worked in the office of Chief Project Manager, S.E.Railway, Visakhapatnam, and outstanding dues clearance was to be obtained from that office. The applicant was occupying a Railway quarter at Visakhapatnam. Even after his retirement with effect from

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30.9.1994 payment of pensionary dues was taken up by Pension Adalat in 1995 and as per commitment given by Senior Divisional Accounts Officer, Waltair Division, the pension was released vide P.P.O dated 22.5.1995. According to the respondents, the delay occurred because of non-receipt of departmental clearance from different units where the applicant had worked and also because the applicant failed to vacate the quarter prior to 31.5.1995. On the above grounds, the respondents have opposed the prayer of the applicant.

4. The applicant in his rejoinder has stated that Railways in their Establishment Serial No. 133/94, which is enclosed as Annexure-I to the rejoinder, have laid down that where payment of Death-Cum-Retirement Gratuity is delayed on account of administrative lapse or for reasons beyond the control of the Railway servant concerned, interest at 12% compounded annually would be paid to the retired Railway servant or dependants of deceased Railway servant. It is also mentioned that these orders are effective from 25.8.1994. It is further stated that in certain other cases, other Benches of the Tribunal have ordered payment of interest at 18% per annum and the Hon'ble Supreme Court have also ordered payment of interest at market rate. The applicant has referred to these cases in his rejoinder and has reiterated his claim. On the question of obtaining clearance certificate, it is stated that office of Chief Administrative Officer (P), Personnel Department, S.E.Railway, Bhubaneswar, in letter dated 17.10.1994 (Annexure-V) had requested the respective bill compiling officers and controlling officers in places where the applicant had worked throughout his service career to furnish necessary clearance by 15.11.1994. It has also been mentioned in this letter that if no reply is received by 15.11.1994 it will be presumed that there are no dues against the applicant and settlement will be processed accordingly. It

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is stated that in spite of this, the respondents did not process the case of the applicant for payment of retiral dues after 15.11.1994. As regards retention of Railway quarter after his retirement from 1.10.1994 to 31.5.1995, the applicant has pointed out that in order dated 31.10.1994 (Annexure-VII of the rejoinder) he was permitted to retain the quarter from 1.10.1994 to 31.1.1995 for four months on normal rent and for another two months from 1.2.1995 to 31.3.1995 at double the normal rent. Again in order dated 4.4.1995 (Annexure-VIII enclosed to the rejoinder) he was permitted to retain the quarter for a further period of two months from 1.4.1995 to 31.5.1995 on double the normal rent. As such it has been pointed out by the applicant that the retention of the Railway quarter by him upto 31.5.1995 was authorised and he was permitted to do so on payment of normal rent for first four months and double the rent for next four months. On the above grounds, the payment of his pensionary benefits should not have been delayed. Lastly, the applicant has contested the submission by the respondents in their counter that there is no stipulation in the Railway Rules that settlement dues must be arranged within three months in voluntary retirement cases. The applicant in reply has stated in his rejoinder that he gave three months notice on 30.6.1994 to take voluntary retirement with effect from 30.9.1994. He has also stated that three months period is a long enough time to enable the Railways to obtain clearance from the stations where he has worked and therefore, for the delay in payment of pensionary benefits he has claimed interest, as mentioned earlier.

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5. We have heard the applicant, Shri M. Krishna Rao, and Shri Ashok Mohanty, the learned counsel appearing for the respondents, and have also perused the records.

6. The respondents have opposed the prayer of the applicant for payment of interest on the ground that he had worked at different stations starting as Gangman from 10.1.1973 and retired as Senior Clerk, and clearance had to be obtained from all these different stations. This is no doubt so. But the respondents themselves in their order dated 17.10.1994 have indicated to all controlling officers where the applicant had worked that clearance must be sent by 15.11.1994, otherwise it will be presumed that no dues are outstanding against him. Therefore, after 15.11.1994 they should have made payment of retirement dues. As a matter of fact, the respondents should have processed the retirement papers immediately after the retirement of the applicant so that after 15.11.1994 the dues could be paid. The applicant has stated that he had given notice for voluntary retirement on 30.6.1994 and voluntarily retired with effect from 30.9.1994 and therefore, interest should be paid from 1.10.1994. We find from the counter that the applicant had submitted his pension papers only on 28.10.1994. For getting the retiral benefits the applicant has to submit pension papers and since he has submitted the pension papers on 28.10.1994 the respondents must be allowed some time to process the pension papers. In view of this, it would be just and proper to allow interest to the applicant from 1.1.1995.

7. The second ground urged by the respondents against payment of interest is non-vacation of quarter by the applicant till 31.5.1995. The applicant has pointed out that he kept the quarter with proper sanction of the competent authority and had also paid double the rent after four months and therefore, on

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this ground, payment of his retirement dues should not have been delayed. This contention of the respondents is accordingly rejected.

8. At Annexure-II of the O.A. the applicant has indicated the dates on which DCRG, commuted value of pension and pension were received by him. These dates have not been contested by the respondents in their counter. In view of this, it is ordered that interest should be paid to the applicant on DCRG amount of Rs.21, 528/- from 1.1.1995 till 17.1.1996. Similarly, on commutation value of pension interest is allowed from 1.1.1995 till 17.11.1995, and on pension interest is allowed from 1.1.1995 to 19.6.1995.

9. The applicant has also asked for interest on package allowance of Rs.600/-. At Annexure-II it is stated by him that this allowance has not yet been paid to him. We are not inclined to grant interest on the package allowance of Rs.600/- because we find from Annexure-VI enclosed by the applicant to his rejoinder that package allowance of Rs.600/- was sanctioned to him on 4.12.1995 and FA & CAO (C), Bhubaneswar, was directed to make payment of this amount by cheque to the applicant in the address given on the P.O. The Cashier was also instructed to send the cheque by remitting the money order charges to the applicant. Copy of this letter was also sent to the applicant in his address at Vijayawada. The question of payment of package allowance would come up only after the applicant had vacated the quarter and shifted to some other place which in this case is Gangavaram at a distance of 350 KM from Visakhapatnam, the last place of duty of the applicant. For this also the applicant has to submit a bill at least the particulars where he has

shifted. The applicant has not made any averment as to when he submitted the bill or had given the particulars about his shifting to Gangavaram. As he has vacated the quarter and shifted on 31.5.1995 it is not possible to hold in the absence of any specific averment to the effect that the sanction of Rs.600/- as package allowance as at Annexure-VI of the rejoinder has been actually delayed. It is also stated by the applicant at Annexure-II of the OA that this amount has not yet been paid to him. We find from the sanction order at Annexure-VI of the rejoinder that he has been intimated about payment of this amount. The applicant has not made any averment as to what steps he has taken to get the amount which has already been sanctioned and how and why the respondents have not made the payment to him yet. In consideration of this, we reject his prayer for getting interest on package allowance. It is, however, ordered that in case the package allowance of Rs.600/- has not been paid to the applicant, then the same should be paid to the applicant within a period of 90 (ninety) days from the date of receipt of copy of this order.

10. The last point which remains for consideration is the rate at which interest should be allowed to the applicant. The Railway Board's circular already provides for payment of interest at 12% per annum. The applicant has asked for payment of interest at 18% per annum. He has relied on a decision of the Division Bench of Ernakulam Bench in the case of P.N.M.Elayadam v. Union of India and others, (OA 222 of 1995 - decided on 12.6.1995) where 18% interest has been allowed in a case of delayed payment of retiral benefits to an employee who retired voluntarily. Similarly, in another case decided by Bombay Bench of the Tribunal, Shri B.L.Agarwal v. Union of India and

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others, (OA 691 of 1993 - decided on 19.11.1993), 18% interest has been allowed. In consideration of this, we direct that interest, as ordered by us for the period mentioned above, should be paid to the applicant at the rate of 18% per annum. Such payment should be made within a period of 90 (ninety) days from the date of receipt of copy of this order.

11. In the result, therefore, the Original Application is allowed but under the circumstances without any order as to costs.

(G.NARASIMHAM)

MEMBER (JUDICIAL)

Somnath Som  
(SOMNATH SOM)

VICE-CHAIRMAN 5399

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