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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 301 of 2000
Cuttack, this the 29th day of November, 2001

MSJ 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*.

Somnath S. S.
(SOMNATH S. S.)
VICE-CHAIRMAN
29.11.2001

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 301 OF 2000
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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

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MSJ Rao, aged about 60 years, son of M.Jangamaiya, previously working as Sr. Shunter, Kantabanjhi, Sambalpur Division, Sambalpur, At/PO-Waltair Door No. 39-B-17, Murli Nagar, Visakhapatnam-7, Andhra PradeshApplicant

Advocates for applicant - M/s A.Kanungo
S.R.Mishra
B.Ray
M.K.Biswal

Vrs.

1. Union of India, represented through General Manager, S.E.Railway, Garden Reach, Calcutta-43.
2. Chief Personnel Officer, S.E.Railway, Garden Reach, Calcutta-43.
3. Divisional Personnel Officer, S.E.Railway, Sambalpur Division, Sambalpur Respondents

Advocate for respondents - Madam S.L.Patnaik

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this O.A. the petitioner has prayed for a direction to the respondents to disburse the gratuity and provident fund with 18% interest till actual payment is made. The second prayer is for allowing interest at 18% on arrear pension paid to the applicant on 22.1.2000. The respondents have filed counter opposing the prayers of the applicant. No rejoinder has been filed.

2. I have heard Sri S.R.Mishra, the learned counsel for the petitioner and Madam S.L.Patnaik, the learned Railway Advocate for the respondents and have perused the pleadings.

3. For the purpose of considering this petition it is not necessary to record all the averments made by the parties in their pleadings. The admitted position is that the petitioner took voluntary retirement with effect from 25.8.1998. Pension along with arrears of pension and commuted value of pension were released to him on 8.1.2000 and 22.1.2000 respectively according to the applicant and 27.10.1999 according to the respondents. DCRG and provident fund, for release of which the applicant has filed this O.A. on 23.6.2000, have been released to him on 5.5.2000 and 8.8.2000. Thus, by the time of hearing of this O.A., all the dues mentioned by the petitioner in his O.A. have been received by him and the present controversy is only regarding payment of interest at 18% claimed by the applicant.

4. The applicant took voluntary retirement on 25.8.1998. ~~This xxxxxxxxx fixing xxxxxxxxx xxxxxxxxx proximate xxxxxxxxx amount xxxxxxxxx was not paid to him.~~ Provident fund amount has been paid to him only on 5.5.2000. The respondents in their counter have indicated reasons why pension papers could not be finalised earlier. But these reasons which will be considered later would not justify delay in release of the provident fund amount. After all provident fund is the saving of the applicant himself and there cannot be any reason for delaying release of provident fund till 5.5.2000. In view of this, the prayer for interest on

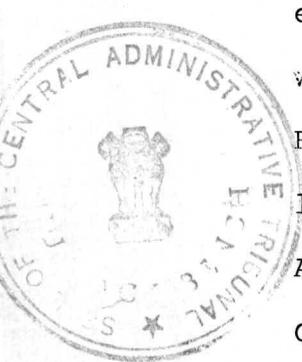
S.J.M.



provident fund is disposed of with direction to the respondents that the applicant should be paid interest at 12% on the provident fund amount from the date of his retirement till 31.4.2000. This payment should be made within a period of 90 days from the date of receipt of copy of this order. While making such payment, interest, if any, already allowed on the provident fund amount for the period after the applicant's retirement should be adjusted. This prayer is accordingly disposed of.

5. Respondents in their counter have stated that the applicant along with about 300 other Railway employees working as Loco Running staff of different zones were dismissed from service for their participation in Loco Running Staff Strike in January 1981. This was followed by a long legal battle regarding reinstatement of dismissed employees. As per orders of the Hon'ble High Court of Calcutta in C.R.No. 2393(W) of 1981 the applicant and others were paid certain allowances during the pendency of the litigation. Ultimately, the matter went to the Hon'ble Supreme Court and their Lordships in judgment dated 5.8.1993 in Civil Appeal Nos. 4681-82 of 1992 directed reinstatement of the dismissed employees including the applicant with certain benefits. The applicant again reported for duty on 8.10.1993 with notional continuity from the date of dismissal till the date of reinstatement for the purpose of calculation of pensionary benefits. The Hon'ble Supreme Court directed that such employees should be paid compensation equivalent to three years salary inclusive of Dearness Allowance calculated on the scale of pay prevalent in the year of judgment by one of the Tribunals in 1990. As the applicant had already been

S. J. M.



paid certain allowances in terms of the orders of the Hon'ble High Court of Calcutta and the Hon'ble Supreme Court directed payment of three years salary and allowances as compensation, it became necessary to recover the excess amount paid to the applicant because of the order of the Hon'ble High Court of Calcutta. This required reference to old records and initially an amount of Rs.80,224/- was found as recoverable from the applicant. This was again re-checked with reference to the documents relating to payments made to the applicant. The applicant was earlier working in Waltair and had been later on transferred to Sambalpur. After verification of records at different places it was found that an amount of Rs.13,372/- was to be recovered from the applicant. Accordingly, gratuity was sanctioned on 8.8.2000. It is further submitted that an amount of Rs.9,031/- from the gratuity has been kept in deposit pending clarification from Divisional Railway Manager, Waltair, since the amount was mentioned for recovery in Divisional Railway Manager, Waltair's letter dated 2.3.1995. It is stated by the respondents that because of the above reasons, there was delay in releasing gratuity and pension. In view of the above circumstances mentioned by the respondents in their counter and not denied by the applicant by filing any rejoinder, it is held that no case is made out for payment of interest on gratuity. Moreover, the applicant did not retire on superannuation. He went on voluntary retirement with effect from 25.8.1998 which is not a pre-fixed date like the date of superannuation. He also submitted pension papers only on 9.10.1998 after his retirement. In view of this, I hold that no case for payment of interest on gratuity is made out. This prayer is accordingly rejected.

6. The last prayer is regarding interest on pension and arrears of pension and commuted value of pension. The pension was authorised on 27.10.1999 according to the respondents. The applicant has stated that he received these amounts in January 2000. It has not been mentioned by either party in their pleadings if during the period from 26.8.1998 till 5.1.2000 the applicant was paid any provisional pension. Whatever may be the reason for delay in release of gratuity, there would have been no difficulty on the part of the respondents to release provisional pension to the applicant. There is no averment in the counter as to why provisional pension could not be sanctioned to the applicant. On the other hand, it is also to be noted that the applicant submitted pension papers only on 9.10.1998 and some time was legitimately needed for the respondents to clear the pension papers even for the purpose of granting provisional pension. In view of this, I direct that interest at 12% per annum should be paid to the applicant only on the arrears of pension from 1.4.1999 till 31.12.1999 in case the provisional pension has not actually been sanctioned and paid to the applicant during this period. This amount should be worked out and paid to the applicant within a period of 90 days from the date of receipt of copy of this order.

7. In the result, therefore, the O.A. is partly allowed with observation and direction above. No costs.

Somnath Som
(SOMNATH SOM)
29/11/2001
VICE-CHAIRMAN