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O.A. No. 950 OF 2004.

Order dated 30-06-2006.

It is the case of the Applicant that although he has been retired from Railway Service compulsorily vide order No. E/20/XVI/36 dated 21-04-1986 which has been confirmed by this Tribunal in an Original Application No. 169 of 1989 disposed of on 12<sup>th</sup> October, 1990 till date he has not been paid his retiral dues; for which he has approached this Tribunal in the present Original Application filed under section 19 of the Administrative Tribunals Act, 1985 with a prayer to direct the Respondents to release his retiral dues.

Respondents have filed their counter stating therein that an amount of Rs.3,177/- towards Provident Fund and an amount of Rs.2,298 towards the leave salary have already been sanctioned and paid to the Applicant vide Office Order No. 79/86 dated 07-08-1986. It has been admitted by the Respondents that except the above amount, no other settlement dues have been paid

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to the Applicant as he has not yet executed and submitted the necessary settlement documents in the prescribed form inspite of communication dated 08-06-1988(Annexure-R/4) and dated 16-06-1995 (Annexure-R/5).

By filing a rejoinder, the Applicant has submitted that no dues have been paid to him till today. He has taken the stand that although he has approached the authorities of the Railways times without number no heed has been paid to his request. He has also submitted that although he has complied the order under Annexure-R/5 till date nothing has been paid to him and he has been continuing in great hardship due to nonpayment of his dues.

Heard learned counsel appearing for the Applicant and Mr. S.K.Ojha, learned Standing Counsel appearing for the Railways and perused the materials placed on record. From the record it is crystal clear that the Applicant is entitled to retiral dues even after compulsory retirement from Railway Service. From

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the record it is also clear that delay in disbursement of the retrial dues was due to non-furnishing of the documents by the Applicant. At the same time, I must deprecate the action of the Railways in not taking adequate steps to make the Applicant aware that unless the documents are furnished the retrial dues could not be processed/released.

I may mention here that the philosophy adopted by the Hon'ble Supreme Court is that pension payable to employees of the government is not a charity or bounty dependent on the sweet will of the employer, as was thought during the British days, but is a deferred portion of compensation for past service of the employee. Law is also well settled that arrears of pension which was thus accrued is a valuable right and property in the hands of a pensioner and not a matter of bounty. If it is wrongfully withheld or delayed, owing to the culpable negligence of an employer, otherwise than in accordance with rules, the employer as well as the

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Government would be liable to penal interest for such negligence.

In the aforesaid premises, since already long time has been consumed by the Respondents in the matter of settlement of the statutory retiral/terminal benefits of the Applicant, the Respondents are hereby directed to complete all the formalities, if necessary by asking the Welfare Inspector to collect the documents from the Applicant, as early as possible and in any event to release all the dues of the Applicant (including arrears) within a period of 90 days from the date of communication of this order; failing which the Applicant shall be entitled to interest at the rate of 8% per annum on the entire amount which shall be recovered from the officer(s)/official(s) responsible for such delay. Since receipt of the dues paid to the Applicant is in dispute, the Respondents are also directed to once again verify the record and communicate the particulars of the receipt to the Applicant within the time fixed.

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In the result, this O.A. stands disposed of  
with the observations and directions made above. No  
costs.

B.B.M.  
(B.B.MISHRA)  
MEMBER (ADMN.)

