

3.

O.A.No. 532 of 2009

Biranchi Narayan Das .....

Applicant

Vrs.

Union of India and others .....

Respondenets

CORAM:

HON'BLE SHRI JUSTICE K.THANKAPPAN,JUDICIAL MEMBER  
AND

HON'BLE SHRI C.R.MOHAPATRA, ADMN. MEMBER

Order dated 19th November, 2009

Applicant Shri Biranchi Narayan Das retired as Chief Section Supervisor (Traffic Section), office of the General Manager Telecom District, Bhubaneswar, Bharat Sanchar Nigam Limited, with effect from 31.3.2008, vide Annexure A/1 dated 11.3.2008. As his retirement dues were not paid, the applicant made a representation on 1.12.2008 (Annexure A/2) to the Secretary to the Government of India, Department of Pension & Pensioners' Welfare, AR &PG, New Delhi, for a direction to the General Manager, BSNL, Telecom District, Bhubaneswar 22, to forward his pension papers along with all the required documents to the Controller of Communication Accounts (Respondent No.4) and to issue necessary directions to the appropriate authority to disburse the retirement dues. The applicant has stated that after much persuasion, the Respondent-authorities settled the retirement dues and paid his gratuity and commuted value of Rs.6,98,868 on 3.2.2009 and arrears of pension by crediting the same to his Bank account on 20.3.2009 without interest for the period of delay in making the aforesaid payments.

28

The applicant has further stated that in terms of the instructions of the Government of India, especially the Government of India, Department of Telecom (office of the Controller of Communication Accounts, Orissa Telecom Circle, Bhubaneswar), O.M. dated 19.2.2008 (Annexure A/3), the list of employees due to retire within next 24 to 30 months should be sent to the Joint Controller of Communication Accounts on the 1<sup>st</sup> January and 1<sup>st</sup> July each year and the cheque/draft prepared in the name of the pensioner should be sent to the authority from whom the pension papers were received and the cheque/draft should be handed over to the payee. It is the case of the applicant that the Respondent-authorities in utter disregard to the instructions of the Government of India, have delayed in making payment of his retirement dues and are, therefore, liable to pay interest at 10% per annum on the retirement dues paid to him. He made representations dated 12.8.2009 (Annexure A/4) and dated 15.9.2009 to the Secretary to the Government of India, Department of Telecommunication, New Delhi, claiming payment of interest. But before the aforesaid representations could be disposed of and orders passed by the appropriate authority, the applicant filed the present O.A. on 4.11.2009 seeking the following relief:

- “(i) To direct the Respondents to pay the interest at the rate of 10% for delay payment on retirement dues of the applicant i.e. in the total amount Rs.6,98,686.00 on gratuity and committal value.

28

- 5
- (ii) To direct the Respondents to pay damages to the applicant.
  - (iii) To direct the Respondents to award 10% interest per annum Rs.1,19,657.00 arrear of pension without commutation which was credited on 20.3.09."

2. This Tribunal heard the learned counsel for the applicant and perused the pleadings of the applicant. The applicant has nowhere in the Original Application as well as in the synopsis filed by him along with the O.A. mentioned the date on which he had submitted his pension papers and other documents for settlement of his retirement dues. He has also nowhere in any of the documents filed along with the O.A. mentioned about the date of submission of pension papers and documents by him. The applicant has also not filed any correspondence from the competent authority sanctioning his provisional/final pension and other retirement dues, to show that the General Manager, Telecom District, Bhubaneswar 751022 (the authority under whom the applicant was working at the time of retirement from service) has failed to act in accordance with the instructions of the Government of India and as per the letter under Annexure A/3. It is thus clear that the applicant has failed to make out a case that the General Manager, Telecom District, Bhubaneswar (Respondent No.3), or for that matter any other authority, has deliberately and intentionally withheld the pension papers and other documents from the authority competent to sanction pension and other retirement dues, for

which the delay in settlement of the applicant's retirement dues was caused. After carefully considering the case of the applicant, we find that though there is some delay in the payment of his dues, yet such delay cannot be held to be inordinate. In the absence of mention of the date of submission of pension papers and other documents by the applicant in the O.A. and other documents filed along with the O.A., this Tribunal is also unable to reach any finding with regard to liability, or otherwise, of Respondent No.3, or any other authority, on the question of delay of about nine months in settling the retirement dues of the applicant. As regards the applicant's prayer for a direction to the Respondents to pay damages to the applicant on account of delay in making payment of his retirement dues, we find that the applicant has nowhere mentioned about the loss or damage, if any, sustained by him and as to the quantum of loss/damage. Besides, the Central Administrative Tribunal, created under the Administrative Tribunals Act, 1985, is not vested with the power, authority and jurisdiction to determine the damage and issue direction to the Respondent-authorities to pay the same to an aggrieved person making an application under Section 19 of the said 1985 Act. In consideration of all the above, we find that the applicant has not been able to make out a prima facie case for admission of this O.A. We also find that having made representations on 12.8.2009 and 15.9.2009, vide Annexures A/4 and A/5,

7

5

the applicant cannot be deemed to have exhausted the remedy in as much as the period of six months as prescribed under Section 20(2)(b) of the Administrative Tribunals Act, 1985 has not expired from the date(s) of filing the aforesaid representations. Therefore, the applicant cannot maintain the present application u/s 19 of the 1985 Act.

3. In consideration of all the above, the Original Application is rejected as being without any merit and being not maintainable.

  
(C.R. MOHAPATRA)  
ADMN. MEMBER

  
(K. THANKAPAN)  
JUDICIAL MEMBER