

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH.

No. O.A. 78 of 1996.

Present : Hon'ble Dr. B. C. Sarma, Member (A)

NIRMAL KUMAR MOITRA

VS.

1. Union of India, through the General Manager, S.E.Rly., Garden Reach, Calcutta-43.

1. General Manager, S.E.Rly., Garden Reach, Calcutta - 43.

3. F.A.& C.A.O., S.E.Rly., Garden Reach, Calcutta - 43.

.... Respondents.

For applicant : Mr. B.C.Sinha, Counsel.

For respondents: Mr. S. Chowdhury, Counsel.

Heard on : 9.6.97 :: Ordered on : 9.6.97.

O R D E R

In this application the applicant has prayed for grant of interest on the retirement benefits namely, commuted value of pension as well as DCRG since such payment was delayed. The applicant had earlier filed an O.A. bearing No. 318 of 1995 being aggrieved by the fact that although he retired on attaining the age of superannuation on 31.1.94, no payment of retirement benefit was made to him and only provisional pension was sanctioned by the respondent authorities. That application was disposed of by an order dated 19.5.95 in the following terms

"In that view of the matter, we dispose of this case at the admission stage itself, by directing the respondents to pay to the present applicant, within one month from the date of communication of this order, commuted value of pension and DCRG on the basis of provisional pension already granted to him pending finalisation of his pension under the rules. No costs."



The applicant now contends that despite the said order the respondents railway had still made delay in the matter and commuted value of pension amounting to Rs.72,300/- was paid to him on 21.11.95 and DCRG amounting to Rs. 69,300/- was paid on 1.11.95. Being aggrieved thereby, the instant application has been filed with the prayer that interest be granted to the applicant at the rate of 18 per cent per annum for the delayed payment.

2. The case has been resisted by the respondents by filing a reply. The stand taken by the respondents has been that a reference has been made to the Railway Board to relax the Board's order of 1971, as set out at annexure R1, in the case of promotion of EDP centre vide letter dated 6.9.91 and 16.11.94 and, ultimately the matter has been turned down by the Railway Board by its letter dated 20.1.92. As a result of wrong fixation made in the non-gazetted portion which was carried forward while fixing his pay in gazetted cadre which resulted excess payment amounting to Rs.1,11,000/- approximately. However, he was paid provisional pension which is equivalent to final pension had there not been any dispute in fixation of pay. In the meantime, as per order dated 19.5.95 passed in O.A. 318 of 1995, Zonal Railway issued office order dated 8.8.95 treating the post operated in EDP centre as cadre post and, therefore, the dispute related to the applicant, have been sorted out and all retirement dues have been paid to the applicant on 27.10.95 after completing the departmental procedure regarding revised fixation of settlement dues of the applicant. Therefore, no delay has been made intentionally from the side of the respondents for arranging payment of retirement benefits to the applicant. They have, therefore, payed for dismissal of the application on the ground that it is devoid of merit.



3. During hearing, Mr. S. Chowdhury, 1d. counsel for the respondents, submitted that in the earlier O.A. bearing No.318 of 1995, the applicant had prayed for grant of interest for the delayed payment. However, I find from the order dated 19.5.95 there is no mention whatsoever that the applicant had ever prayed for grant of interest in the earlier case. There is no order also for granting such interest. If the 1d. counsel is interested in pursuing the matter, copy of the application should have been produced before me, which is not done. However, I find that this point is not relevant for the purpose of adjudicating this case, in view of the peculiar circumstances involved.

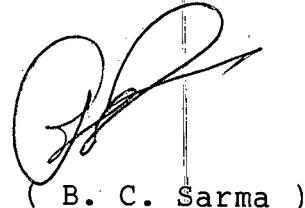
4. I have heard the 1d. counsel for both the parties, perused records and considered the facts and circumstances of the case. I find that being aggrieved by the delayed payment of retirement benefits the applicant had earlier filed an O.A.. In the order disposing of that O.A. on 19.5.95, the Tribunal gave one month's time to the respondents to pay commuted value of pension as well as DCRG on the basis of provisional pension therein. I have been given to understand by the railway authorities that no order regarding final sanction of pension has been issued, the pension order sanctioning the provisional pension become the order regarding final pension after expiry of six months. I also note that the applicant is in no way responsible for the delayed payment of his retirement benefits and for some reasons or other the respondents had raised a debit of rupees one lac which was, however, settled in favour of the applicant who was not asked to pay any money on account of such alleged excess payment. The fact remains that although the Tribunal had directed the respondents to make payment of the retirement dues on the basis of provisional pension within a period of one month considering the urgency involved in the matter, the respondents had still delayed the matter and



4.

ultimately the commuted value of pension was paid to him on 21.11.95 and the DCRG amount was paid to him on 1.11.95. I am, therefore, clearly of the view that since no adequate justification for the delay has been given by the respondents, they are responsible for delay and accordingly, the applicant is entitled to receive interest for the delayed payment after expiry of one month from the date of the earlier order.

5. In view of the above, the application is allowed. The respondents are directed to pay interest to the applicant at the rate of ten per cent per annum from 20.6.95 on the commuted value of pension amount as well as DCRG amount till the date of actual payment. Such interest shall be paid by the respondents within a period of two months from the date of communication of this order failing which the respondents shall pay him interest at the rate of 15 per cent per annum on the entire amount. No order is passed as regards costs.



B. C. Sarma)

MEMBER (A)