

Central Administrative Tribunal
Calcutta Bench

OA No.998 of 1996

Present : Hon'ble Mr. D. Purkayastha, Judicial Member

Jogee Paiker

Vs.

S.E. Railway

For the Applicant : Mr. A. Chakraborty, Ld. Advocate

For the Respondents: Mr. P. Chatterjee, Ld. Advocate

Heard on : 1-6-1998

Date of Judgement : 1-6-98

ORDER

After passing of the dismissal order to-day for default of the applicant's Advocate, Mr. Chakraborty, Ld. Advocate appears later in presence of Ld. Advocate Mr. Chatterjee who represents the respondents and submits that he could not attend this Tribunal to-day when the case was called for hearing due to some personal difficulties. So, case should be restored for hearing. After considering the submissions of Ld. Advocates of both the parties, I have allowed the prayer and set aside the dismissal order passed by me to-day and restored the case for hearing.


2. Accordingly, I have heard Ld. Advocates of both the parties over an application filed by the applicant Shri Jogee Paiker who was holding the post of Gangman under P.W.I.(West), Santragachi under S.E. Railway. Grievance of the application in short is that he retired from service on attaining the age of superannuation on 31.4.94 but through mistake he was allowed to continue in the service even after the date of retirement on 31.1.94 till 7-12-94. In pursuance to the said facts the applicant was granted provisional pension w.e.f. 6-12-94 but other pensionary benefits ^{Such as} ~~like~~ leavey salary,

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DCRG, Insurance Money and Commuted value of pension were not granted in favour of the applicant by the respondents. So, the respondents should be directed to release all pensionary benefits from the date of actual superannuation with interest at the rate of Rs.18% per annum. The respondents did not file any reply in this regard. Id. Advocate Mr. Chatterjee, appearing on behalf of the respondents, submits that the matter is pending for consideration before the Railway Board and in the meantime the applicant was granted 50% of gratuity as per order of the Tribunal. So, all retirement benefits as admissible to him would be paid to the applicant on a decision taken by the Railway Board over the matter. So, application should be dismissed. Mr. Chatterjee also submits that he already instructed the respondents to release the ~~commuted~~ ^{leave} salary as admissible to the applicant under the rules. Mr. Chakraborty is not disputing the date of retirement as granted by the respondents to the applicant w.e.f. 31.1.94. He is also not disputing the date of birth as recorded by the respondents in the service book. So, applicant was due to be retired from service w.e.f. 31.1.94. But inadvertently he was allowed to continue even after retirement till 7-12-94.

3. In view of the aforesaid circumstances, a Government servant has no right to continue in the service on ~~expiry of the~~ ^{attaining the age} ~~date~~ of superannuation which is due according to date of birth recorded in the service book. Since applicant did not challenge the date of retirement, thereby there is no reason for denial of the pensionary benefits of the applicant treating the date of ^{retirement on} superannuation from service w.e.f. 31.1.94. In view of the aforesaid circumstances and as per Pension Rules, the pensionary benefit has become due to the applicant from the date of retirement i.e. 31.1.94. Thereby I do not find any reason as to why the respondents did not make payment of gratuity, insurance money, commuted value of pension treating his retirement as on 31.1.94 ^{till date when} ~~since~~ the applicant did not challenge the same. Under the provision of Pension Rules, a pensioner is entitled to get interest on the delayed payment of gratuity or retirement benefits, if such benefits is granted to the pensioner after expiry of three months from

the date of retirement. Admittedly the applicant retired from service on superannuation w.e.f. 31.1.94 and his pensionary benefits such as leave salary, insurance money, DCRG and commuted value of pension were withheld by the respondents for no fault of the applicant. So, interest on retirement dues cannot be denied to the applicant. I find that the respondents arranged for provisional pension on 28-12-95 as per Annexure A to the application but his pension was due on 31.1.94. Delayed payment of pension and gratuity could not be substantiated by the respondents by filing any reply in this case. ⁶⁰ I find that it would be a fit case to direct the respondents to ^{due} release all pensionary benefits to the applicant within 3 months from the date of receipt of this order from this Tribunal with interest at the rate of Rs12% from the date of retirement on 31.1.94 till the payment is made by the respondents. ~~But applicant would not be entitled to~~ get any interest on the amount which had already been paid to him by the respondents. With this observations, application is disposed of with direction upon the respondents to release all retirement benefits as claimed in the application within 3 months from the date of communication of this order. Applicant is also entitled to get cost Rs.1000/- from the respondents. Application is disposed of accordingly.


(D. Purkayastha)
Member (J)