

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. No. 483 of 1996.

Present : HON'BLE DR. B.C. SARMA, ADMINISTRATIVE MEMBER.

Sourindra Kumar Mal,
S/o late, Sudhir Chandra Mal,
aged about 62 and half years,
Ex-Asstt. Personnel Officer,
S.E. Rly, Kharagpur
at present residing at -
School Bazar, Ice Shop,
PO & Dist. Midnapore,
West Bengal.

... ... Applicant.

- Vs. -

1. Union of India
service through -
General Manager, SE Rly,
Garden Reach, Cal-43.
2. General Manager, SE Rly,
Garden Reach, Calcutta- 43.
3. Chief Personnel Officer,
SE Rly, GRC, Calcutta-43.

... ... Respondents.

For Applicant : B.C. Sinha, Counsel.

For Respondents : Ms. B. Ray, Counsel.

Heard on : 6.12.1996 &
9.12.96.

Date of Order : 9.12.1996.

O R D E R

1. The dispute raised in this application is about the grant of interest on delayed payment of D.C.R.G. and commuted value of pension.
2. Briefly stated the facts of the case are as follows :-
The applicant had retired from service on attaining the age of superannuation on 31.8.1991 but before the date of his

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retirement, a major penalty charge sheet was issued against him on 18.7.1991, a disciplinary proceeding had followed and, thereafter, the disciplinary authority had given his findings and the entire matter was reported to the President. Meanwhile, after the submission of Charge-Sheet against the applicant, the applicant had retired as stated hereinbefore.

3. The respondents did not impose any penalty on the applicant as per provision of the R.S.(D & A) Rules, 1968 and a notice of Govt's displeasure was issued on 30.9.1994 as set out as Annexure 'A-2' to the application. The applicant was finally paid the D.C.R.G. amount on 22.3.1995 and the commuted value of pension on 12.9.1995. The applicant is aggrieved by the fact that the payment of D.C.R.G. and the commuted value of pension was unduly delayed by the respondents and, thereafter, he was approached this Tribunal for issue of direction on the respondents for the grant of interest on the said two items.

4. The case has been contested by the respondents by filing a reply. The stand taken by the respondents has been that the competent authority had issued necessary orders after examining the matter regarding grant of pension and gratuity in terms of paras 2(i)(a) and 2(i)(c) of the Estt. Srl. No. 101 of 1991. The respondents have also quoted the provisions of those two sub-paras at page 3 of their reply. The para 2(i)(c) of the said Estt. Srl. runs as follows :-

" In cases where the Rly. servant is not fully exonerated on the conclusion of disciplinary/judicial proceedings and where the competent authority decides to allow payment of gratuity in such cases, the payment of gratuity will be deemed to have fallen due on the date of issue of orders by the competent authority for payment of gratuity vide Bd's letter of even No. dt. 3.9.79, if the payment of gratuity is delayed in such cases interest will be payable for the period of delay beyond three months from the date of issue of the above mentioned orders by the competent authority".

Or

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The respondents contend that since there was disciplinary proceeding pending against the applicant the final pension could not be paid to the applicant and, therefore, the applicant is not entitled to receive any interest on the delayed payment of commutation. The respondents further averred that they have already paid interest to the applicant on the delayed payment of gratuity.

5. Mr. Sinha, 1d. Counsel for the applicant, emphasises the fact that although it was true that a disciplinary proceeding was instituted against the applicant as per provision of R.S. (D & A) Rules, 1968, ^{but} no order of penalty was issued by the respondents on the applicant. The order conveying the 'displeasure' to the applicant cannot be construed as ^{as} penalty given ~~in accordance with~~ the R.S. (D&A) Rules and, therefore, according to Mr. Sinha, the respondents are not entitled to delay the payment of gratuity as well as commuted value of pension and, since the delay taken place on their own account the applicant is entitled to receive interest thereon.

6. However, this submission of Mr. Sinha was opposed by Mrs. Ray on the ground that the respondents have taken all necessary actions as per law. Mrs. Ray submits that although there is a provision of provisional pension to be granted to the applicant, ^{but he did not apply.} Therefore, he cannot claim interest on the ground that the commutation value of pension was delayed by the respondents.

7. The matter has been examined by me carefully after hearing the submission of the learned counsel for both the parties, perusing the records and considering the facts and circumstances of the case. The facts narrated by the applicant have not been disputed by the respondents. The only question on the issue is

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whether as a result of delayed sanction of gratuity and commutation value of pension, the applicant is entitled to receive interest thereon. I find that there was ^a proceeding instituted against the applicant before his retirement, and that was for major penalty and, the President is the appropriate authority to pass necessary Orders in the matter. It is true that the competent authority did not pass any Order of penalty as envisaged in the R.S.(D & A) Rules, 1968 but in the proceeding, as it appears from the reply, the applicant was held guilty and the respondents had given him some concession in the matter by conveying only the 'displeasure' and did not impose on him any penalty. The fact, therefore, remains that the disciplinary proceeding was concluded only on 11.10.94 i.e. the date on which the Order of displeasure was conveyed to the applicant, which he received some days later. I find that the respondents have already paid ~~xx~~ interest on the D.C.R.G. amount to the applicant from 30.12.1994 to 28.2.1995. It, therefore, appears that the payment of interest given by the respondents to the applicant had commenced even before the expiry of 3 months from the date of conveying of the 'displeasure'. In view of this, I am clearly of the opinion that the applicant is not entitled to receive any more interest on D.C.R.G. amount.

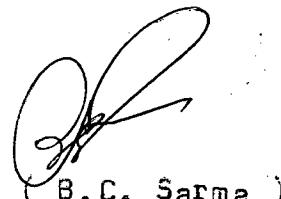
8. As regards the commuted value of pension, I find that the applicant had received the payment on 12.9.1995 and the order was issued on 25.4.1995 and the final payment was given to the applicant ~~as~~ by the Order dated 15.2.1995. I find that since the disciplinary proceeding was closed on 11.10.1994 and there was only a slight delay in the matter of grant of Final pension to the applicant w.e.f. 15.2.1995. However, the payment



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of commuted value of pension, on the basis of the applicant already made before his retirement, was delayed and the applicant, ultimately, received it only on 12.9.1995. I am, therefore, of the view that the respondents should pay interest to the applicant @ 10% per annum on the commuted value of pension from 15.2.95 to the date of actual receipt.

9. The application is disposed of accordingly without passing any order as to costs. The above payment shall be made by the respondents within a period of 3 months from the date of communication of this Order.



B.C. Sarma)
Member (A)
9.12.1996.

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