

Date of order : 05.05.1999.

O.A.NO. 401/1996.

Ahmed Sultan S/o Shri Abdul Sattar R/o Kesarganj, Kohinoor Ice Factory, Abu Road, Ex. Assistant Electric Foreman (Diesel), Abu Road.

.....Applicant.

VS.

1. Union of India through General Manager, Western Railway, Church Gate, Mumbai.
2. Divisional Railway Manager, Ajmer Division, Western Railway, Ajmer.

.....RESPONDENTS

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HONOURABLE MR. A.K.MISRA, JUDICIAL MEMBER

Mr. K.S.Chouhan
Mr. R.K.Soni

..... For the applicant
..... For the respondents.

BY THE COURT

The applicant has filed this O.A. with the prayer that the respondents be directed to pay to the applicant all the post retiral benefits i.e. Gratuity, Provident Fund, Insurance, Pension etc. alongwith interest at the rate of 24% per annum from 25.7.1986 till the date of payment.

2. Notice of the O.A. was given to the respondents who have filed their reply to which no rejoinder was filed.
3. In the reply, the respondents have stated that the applicant

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was, as a measure of punishment removed from service but was ordered to be compulsorily retired by the Appellate Authority in the year 1996 and thereafter, amount relating to Provident Fund, Gratuity and arrears of Pension was paid to the applicant vide letter dated 3.8.1998 (Annex.R/1). Thereafter, the applicant is drawing his pension regularly. The applicant is not entitled to any interest on the aforesaid amounts.

4. I have heard the learned counsel for the parties and gone through the pleadings.

5. There is no dispute about applicant's having been removed from service by the Disciplinary Authority w.e.f. 19.6.1986. The order of removal was challenged by the applicant by preferring an appeal on 23.3.1987 before the competent authority. The departmental appeal remained pending with the competent authority for quite long time, therefore, the applicant had to file an O.A. before the Tribunal in which it was directed that the appeal be disposed of even then the appeal remained undecided. Thereafter, applicant filed a petition of Contempt of Court in which order dated 20.12.1994 (Annex.A/1), by which the penalty of removal from service was reduced to that of compulsory retirement from service, was filed alongwith the reply to the Contempt Petition. Thereafter, the retiral benefits were paid to the applicant vide letter dated 3.8.1998 (Annex.R/1).

6. The applicant has not disputed the correctness of the amount so paid to him but has claimed that the payment was unreasonably delayed and the applicant was deprived of financial use of the amount, therefore, he is entitled to interest.

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7. The learned counsel for the respondents has argued that the amount relating to aforesaid retiral benefits was paid soon after the appeal was disposed of. But I am not convinced by this argument. The appeal of the applicant was disposed of in December 1994 whereas the retiral benefits were paid to him in August 1998; delay of nearly four years' cannot be said to be reasonable looking to the facts of the case.

8. On the other hand it was argued by the learned counsel for the applicant that order of removal of the applicant from service was converted by the Appellate Authority to that of compulsory retirement of applicant from service vide Annex.A/2 dated 21.2.1995. In view of this, the order passed by the Appellate Authority would relate back to the date of order of removal of the applicant i.e. 25.7.1986. Therefore, the applicant is entitled to interest on the amount of DCRG and arrears of Pension. He has also argued that there was no reason for which the respondents could detain the amount of GPF of the applicant, therefore, the applicant is entitled to interest on that amount also.

9. I have considered the rival arguments. In my opinion, the respondents had no reason to retain the amount of PF payable to the applicant. Provident Fund money is employee's own contribution, payment of which has no nexus with the punishment of removal or otherwise, therefore, the amount of Provident Fund should have been paid to the applicant even if he was removed from service. But this too, was un-reasonably delayed. Therefore, applicant is entitled to interest on Provident Fund from the date it had become due to him. If while paying Rs. 750/- as P.F.amount, the authorities have added up to date interest then the applicant would not be entitled to any interest but if up-to-date interest has not been added on the

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P.F. amount then the authorities shall work-out as to what was the amount payable to the applicant at the time of his removal as P.F. and then calculate the interest as per law on the amount of interest up to the date of payment. Short-fall in amount should be paid promptly by the respondents.

10. So far as interest on DCRG and Pension is concerned, the applicant would be entitled to interest on DCRG amount which was admissible to him on the date of compulsory retirement i.e. on 25.7.1986. There is no order under Rule 9 of CCS (CCA) Rules detaining any part of the aforesaid amount of the applicant. Therefore also, the applicant would be entitled to interest on the amount of DCRG which was admissible to him on the date of his compulsory retirement. The respondents cannot escape the liability of paying the interest on the amount of DCRG to the applicant.

11. So far as the interest on arrears of Pension is concerned, in view of the foregoing facts and due to the pendency of appeal against the order of removal, the applicant cannot claim interest on delayed payment of pension. To this extent, the applicant cannot be granted the relief claimed.

12. The applicant has not been able to show that any amount relating to the Insurance was due to him from the respondents, therefore, the claim of interest on Insurance amount is rejected.

13. In view of the foregoing discussion, the Original Application deserves to be accepted in part and is hereby accepted in part as follows :-

(i) The applicant is entitled to interest on the amount of DCRG and on the amount of PF as discussed in the

foregoing paragraphs which should be paid to the applicant at the simple rate of interest of 12% p.a. within a period of three months from the date of communication of the order to the respondents.

(ii) The applicant is, however, not entitled to any interest on the amount of arrears of Pension, to this extent the application is dismissed.

14. The parties are however left to bear their own costs.

Manoj Misra
(A.K.MISRA)
Judicial Member

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