

Central Administrative Tribunal, Jodhpur Bench, Jodhpur

...

Date of Order : 30.3.2001.

O.A.NO. 132/99

Chetan Prakash Goyal Aged about 51¹/₂ Son Of Late.
Shri Shiv Dassji Goyal, Resident of Sector 25, House
D/9, Chopasani Housing Board Jodhpur. Retired Senior
Civil Engineer (Construction) Under DY. Chief Engineer
(Construction) Northern Railway, Jodhpur.

Applicant.

VERSUS

- (1) Union of India Through General Manager
Northern Railway, Baroda House, Head Quarters
Office, New Delhi.
- (2) The Chief Administrative Officer (Construction)
Head Quarters Office, Kashmiri Gate, Delhi.
- (3) The Financial Advisor & Chief Accounts Officer,
Head Quarters Officer, Northern Railway, Baroda
House, New Delhi.
- (4) Dy. Chief Engineer-III (Construction)
Northern Railway, Jodhpur.
- (5) SR. Accounts Officer (Construction) Northern
Railway, Jodhpur.

Respondents.

Mr. N.K. Khandelwal, Counsel for the applicant.

Mr. K.K. Vyas, Counsel for the respondents.

[Signature]



C O R A M :

HON'BLE MR. A. K. MISRA, JUDICIAL MEMBER

HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

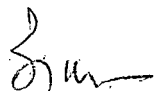
...

ORDER

(Per Hon'ble Mr A.K.Misra)

1. The applicant had filed the present Original Application with the prayer that the impugned orders dated 22nd June, 1998 and 4th January, 1999 (Annexures A-1 and A-2), be declared illegal. The respondents be directed to make the payment of salary of one day that is, of 1st May, 1998 to the applicant and the respondents be further directed to make the payment of interest on the amount of Gratuity and Commutation for the delayed period of four months and the respondents be also directed to make payment of the balance amount of P.F. etc. with interest.

2. Notice of the Original Application was given to the respondents who have filed their reply. The respondents have alleged in their reply that the applicant is not entitled to the salary for one day, i.e., 1st May, 1998, as per rules. The payment of gratuity was made to the applicant on 2.9.1998 and commutation value of pension was paid to him on 11.9.98. No extra-ordinary delay had taken place in making the payment to him, therefore, the applicant is not entitled to any interest on these amounts. It is also alleged by the respondents that the balance amount of P.F. was paid to the applicant on 26.6.99





alongwith interest and nothing is due to him in this regard. The OA deserves to be dismissed.

3. We have heard the learned counsel for the parties and have gone through the case file.

4. The applicant had sought voluntary retirement and as per the order dated 3.4.98 (Annexure A-6) of the competent authority, the applicant was directed to hand-over the charge on his voluntary retirement on 1.5.98 in the afternoon and the applicant ~~re~~relinquished the charge in the afternoon of that day. Therefore, in our opinion the applicant is entitled to get the pay of 1st May, 1998. The applicant's pension has also been made payable from 2.5.98, therefore, there is no reason to deny the pay of one day that is 1st May 1998, to the applicant. The Rule which has been quoted by the respondents in support of their contention, only indicates that the last date of voluntary retirement shall not be a working day and consequently we hold that the words "non working day", indicates only that, on that day the retiring person may not be assigned any job; otherwise there is no reason to deprive an employee of last day's pay when he is actually present in the office and is on duty. Therefore, the contention of the respondents in this regard is rejected.

5. The applicant retired voluntarily on 1st May, 1998 therefore, the applicant's contention that gratuity became payable on 2nd May, 1998 is difficult to up-hold.

[Signature]

In our opinion, a reasonable time i.e. two months for payment of DCRG after retirement is required to be allowed to the respondents. The Hon'ble Supreme Court has also held in State of Karnatak Vs. M. Padmanabhan, reported in AIR 1985 SC 356, that Government's liability to pay interest commences from the expiry of two months from the date of superannuation. Consequently, the applicant would be entitled for interest at the rate of 12% on gratuity from 2nd July till payment of DCRG. The contention of the applicant that he is entitled to interest for all the four months, is not acceptable.



6. The applicant has claimed interest on commutation value of pension. Since the applicant has been paid full pension for the period he was not paid the commutation value, therefore, the applicant cannot claim interest on the amount of commutation. The applicant's claim in this respect deserves to be rejected.

7. The respondents have stated in their reply that as per record, Rs. 10,672/- were deducted as PF for the period alleged by the applicant i.e. during his posting at C.I.T.A., Kanpur and not a sum of Rs. 25,000/- as alleged by the applicant. A sum of Rs. 13,521/- was paid to the applicant on account of balance amount of P.F. and interest thereon. This amount has been admitted by the applicant to have been received by him in his rejoinder. Further, the applicant has alleged in his rejoinder that still Rs. 13,614/- are due on account of PF and interest thereon which the respondents have expected to pay to the applicant. But,

3/2

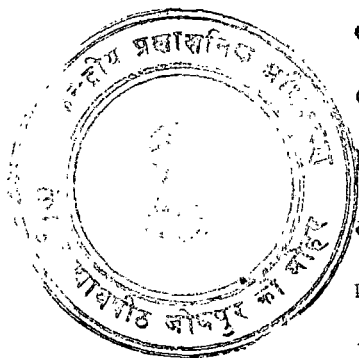
this being a factual aspect and matter relating to accounts and calculations, therefore, we can not put ourselves ^{to} ~~do~~ exercise of calculation in this regard, more especially, when the respondents have denied that nothing is due to the applicant in this regard. However, the applicant is advised to make a representation in this regard giving calculations and the authorities are expected to ~~appear~~ attend the matter and, if any amount is found due, the same should be paid to the applicant.

8. The applicant had made no prayer in respect of electricity charges wrongly recovered from him and clearing charges borne by him in respect of the cheque sent to him relating to the P.F. amount. But, these aspects were advanced in the arguments. After considering the material ^{on} record the verbal submissions in this regard are liable to be rejected.

9. In view of the above discussions, the OA deserves to be accepted in part.

10. The OA is, therefore, accepted in part and the respondents are directed to pay to the applicant salary for one day that is 1st May, 1998 ~~to the applicant~~ and interest on the amount of DCRG for two months at the rate of 12 per-cent per annum within a period of two months from the date of communication of this order. The applicant is directed to make representation in respect of the P.F. amount and interest thereon if at all anything is due on that account, to the competent

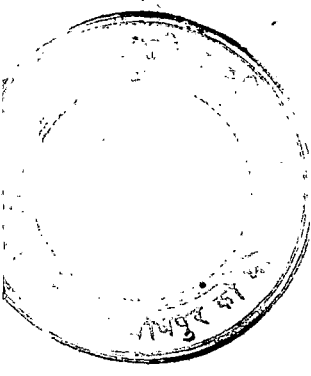
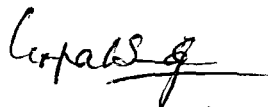
[Handwritten signature]

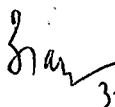


I
B

authority who is directed to decide the same after objectively considering the same. The rest of the prayers of the applicant are refused.

11. The OA is disposed of accordingly with no orders as to cost.



(Gopal Singh)
Adm. Member


30/12/2001
(A.K. Misra)
Judl. Member

mehta

Ric
C. J. 1799/12/

R. C. J.
16/04/07

Part II and IN destroyed
in my presence on 26.3.02
under the supervision of
section officer (1) as per
order dated 19.12.02

Section officer (Record)