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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 304 of 2005 with
Misc. Application No. 49 of 2006 (In OA 304/05)
Date of Decision : This the 20th day of April, 2006.

CORAM :

HON'BLE MR. KULDIP SINGH, VICE CHAIRMAN

B.N. Kasana S/o Shri Nathu Singhji aged 57 years, resident of Devki Villa, Plot No. 29, F.C.I. Colony, Jalore (Raj) Ex. Engineering Controller, Control Office, D.R.M. North Western Railway, Jodhpur.

....Applicant

Mr. Basti Chand, Advocate, for applicant.
Applicant is also present.

Versus

1. Union of India through the General Manager, North Western Railways, Jaipur (Raj).
2. Chief Engineer (Principal), North Western Railway, Jaipur.
3. Shri D.P. Lal, Ex. Senior Divisional Engineer (C), North Western Railway, Jodhpur thr. Divisional Railway Manager North Western Railway, Jodhpur.
4. Senior Divisional Engineer (C), North Western Railway, Jodhpur.
5. Divisional Railway Manager, North Western Railway, Jodhpur.
6. Sr. Divisional Personnel Officer, North Western Railway, Jodhpur.

....Respondents.

ORDER

Heard the learned counsel for both the parties.

2. The applicant by filing M.A. No. 49/2006 submitted that since the reply has been filed belatedly, so it should not be taken on record as per Order 8 Rule 1 of the C.P.C. I have heard both the counsels and perused the record of M.A. and found no force in the contention raised by the learned counsel for applicant.

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Since the provisions of C.P.C. are not applicable in strict sense the M.A. is hereby rejected and reply be taken on record of the O.A.

3. The applicant had filed this O.A. seeking the following reliefs :

(a) by an appropriate order, writ or direction the petitioner be paid retiral benefits, P.F., Gratuity, Pension and Provisional Pension to which the applicant is entitled without prejudice to my rights in pending writ petition – DB Civil Writ Petition No. 4103/05;

(b) by an appropriate order, writ or direction, respondents may be directed to pay interest at the rate of 12% p.a. for illegally detaining the payment of retiral benefits, P.F., Gratuity, Pension, Provisional Pension etc. and so also Rs. 50,000/- as damages for mental tension and to face financial crisis;

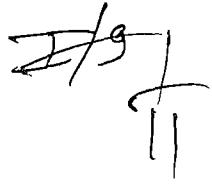
(c) exemplary costs be imposed on the respondents for causing undue harassment to the applicant and

(d) any other relief, which is found just and proper may be passed in favour of the applicant in the interest of justice by this Tribunal without prejudice to my rights in pending writ petition DBCWP No. 4103/05.”

4. The respondents contested the O.A. by filing their detailed reply and has submitted that orders with regard to release of retiral benefits have already been passed and even Death-cum-Retirement Gratuity to the tune of Rs. 2,35,201, Provident Fund amount to the tune of Rs. 1,89,273, G.I.S. dues to the tune of Rs.19,020 and Leave Salary benefits to the tune of Rs. 38,044, have already been received by the applicant.

It is contended by the applicant that pension has still not been started to be paid. On this score, the learned counsel for the Department pointed out that

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the Department has already issued Pension Payment Order (P.P.O.) and the same has been sent to the Bank concerned. The applicant, however, submits that he has contacted his Bank several times to collect the pension but the Bank authorities have shown their inability because of non-receipt of the P.P.O. from his employer i.e. Railways.

5. It has been informed that the summons which were issued on 17.4.2006 by this Court to the Manager of the State Bank of Bikaner and Jaipur, Jalore calling upon them to explain why pension has not been released to the applicant, has been served by the applicant dasti on 18.4.2006. Today, the Manager, SBBJ, Jalore, is present and informed that they are unable to do so as P.P.O. is still awaited. Thus, there does not appear any delay on the part of the Bank for not releasing the pension to the applicant by crediting to his bank account as shown in the P.P.O. Since the Bank has not received the PPO, we have asked directly to the counsel for the Railways Shri Kamal Dave, to show as to when the same has been delivered to the Bank.

The learned counsel for the Respondent-Railways informed that three PPOs simultaneously were sent to the concerned Bank 24.1.2006 and out of which two Government servants have no complaint as they are receiving pension. But, somehow, the pension is not being credited to his applicant's account. It is also stated that all the three PPOs were probably to be sent under one cover and one may have been left out mistakenly, therefore, there appears some communication gap between the Railways and the Bank. There is no record available with the Railways which categorically shows whether P.P.O. has been received by the Bank or not. In view of this, I think it appropriate that the Railways should send a duplicate P.P.O. to the Bank and also they should see that it is physically delivered to the Bank concerned and they would have a receipt in token of delivery of such P.P.O.

6. The learned counsel at last has argued that since there is delay in releasing the payment of pension, the applicant should be awarded interest for the delayed period. However, from a perusal of the record, it seems that the applicant had not filed his papers for seeking retiral benefits in time after he was



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retired compulsorily on 17.12.2003. Thereafter, it seems that he has challenged the order of his compulsory retirement. It is also informed that litigation with regard to assailing of the order of compulsory retirement is still pending adjudication before the Hon'ble High Court and that is the reason that applicant did not chose to file appropriate papers in respect of his retiral dues. The letters placed on record by the applicant, itself shows that the order of compulsory retirement was ordered to be stayed by this Tribunal in O.A. No. 309/2003 on 24.12.2003. In his letters applicant on the one hand had requested that he should be taken back on duty on the other hand claimed that in the alternative, provisional pension should be released to him which is quite contradictory. It seems that particularly when stay order was granted by this Tribunal neither the applicant could fill-up the papers for seeking retiral benefits and probably respondents could also not issue the P.P.O. for release of retiral dues because that would have meant violation of the stay order of this Tribunal itself. In these circumstances, there does not appear any delay on the part of the Railway authorities for issuing the proforma book-let to be filled-in by the applicant in time. Since nothing remains to keep this O.A. pending, it shall stand disposed of with the following directions :

“The Respondent-Railways shall see that the Pension Payment Order is delivered to the applicant's banker within ten days from today. However, in the circumstances as explained above, I am of the view that applicant is not entitled to receive any interest, as claimed. There is no orders as to cost.”

Kuldeep Singh
(Kuldeep Singh)
Vice Chairman

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