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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

Original Application No. 213/2007

Date of decision : 11.02.2009

Hon'ble Mr. Tarsem Lal , Administrative Member.

Radhey Shayam Gupta, S/o Shri Chhotey Lal Gupta aged about 62 yearsresident of village Garhia post Bhopat Patti Distt. Farrukhabad (UP) last employed on the post of CPWI (TD) UNDER Asstt. Divisional Engineer North West raiway Sadulpur Bikaner Division, Bikaner.

: applicant.

Rep. By Mr. B. Khan : Counsel for the applicant.

Versus

1. The Union of India through General Manager, North West Railway Jaipur.
2. Divisional Railway Manager, North West Railway Bikaner Division, Bikaner.
3. Divisional Personnel Officer North West Railway Bikaner Division, Bikaner.
4. Divisional Superintendent Engineer North West Railway Bikaner Division, Bikaner.
5. Assistant Divisional Engineer, North West Railway Sadulpur Bikaner Division, Bikaner.

: Respondents.

Rep. By Mr. K.K. Vyas : Counsel for the respondents.

ORDER

Per Mr. Tarsem Lal, Administrative Member.

Radhey Shayam Gupta has filed O.A. No. 213/2007 and prayed for the following reliefs:

" That the respondents may be directed to make payment of pensionary/retrial benefits i.e. Pension, PF, leave encashment, amount of commutation of pension, DCRG etc and the amount put in UNPAID forthwith and the amount of arrears thereof may be ordered to be paid along with interest of market rate with all consequential benefits.

That any other direction or orders may be passed in favour of the applicants, which may be deemed just and proper under the facts and circumstances of the case in the interest of justice.



(Signature)

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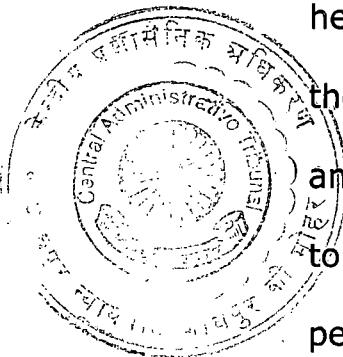
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That the cost of this application may also be awarded to the applicants. 11

2. The applicant was appointed as APWI on 15.10.1970 in the Railway department. He retired from service on 28.02.2005 on superannuation on completion of 60 years of age. He has not been paid his due pension, amount of commutation of pension, DCRG, PF and leave encashment etc. so far. He has submitted number of representations to the competent authority for release of his retiral benefits but the same have not been paid to him so far.

3. The pay of the applicant was revised vide order dated 05.07.2006/23.08.2006 (AnnexA/1) in the pay scale of Rs. 7450-11500 and it was fixed at Rs. 10,375/- as on 28.02.2005. The applicant is entitled to receive the arrear of the amount of revision of pay scales as per Annex. A/1.

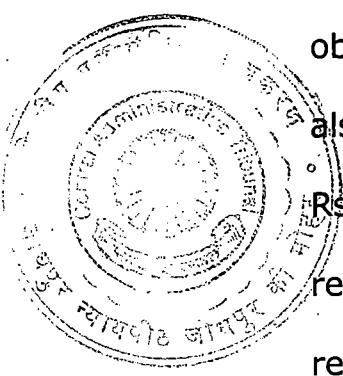
4. The applicant had made a detailed representation vide his letter dated 11.06.2007 (annex. A/3) that the retrial benefits which is legally due to the applicant have not been paid and no heed has been paid by the respondents upon the representation of the applicant. The applicant claims that no intimation regarding any outstanding amount against his name had been communicated to him till the date of his retirement and no vigilance case is pending against him. In spite of that his retrial benefits have not been released to him. The applicant further states that his resettlement has been held up due to paucity of funds and he is



facing with financial hardship since he does not have any other source of income to lead a normal life. Therefore there is no fault on the part of the applicant and his retiral dues are held up due to some extraneous consideration best known to the respondents.

5. The applicant has explained his financial hardship. The life and liberty of the applicant and his family members is adversely affected and there has been infringement of fundamental right as enshrined in Art. 21 of the Constitution of India. Aggrieved by the above, the applicant has filed this O.A praying for the reliefs mentioned in para 1 above.

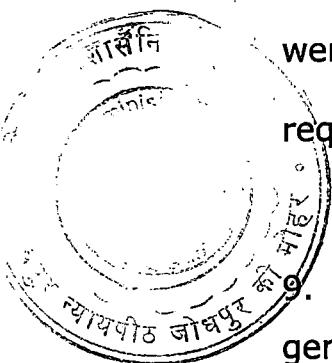
6. The respondents have filed their reply stating that the applicant was initially appointed as APWI on regular basis with effect from 24.10.1971. After his retirement, the applicant has been paid a sum of Rs. 2,63,478 vide cheque no. 238755 dated 07.03.2005. However, the rest of the amount of his settlement dues have been withheld for the reasons that he did not handover the charge of the stock which was entrusted to him and this has obstructed the issuance of 'No Dues Certificate' in his favour. It is also stated that his controlling office had reported that a sum of Rs. 8,90,360/- was outstanding against his name at the time of his retirement. Out of which a sum of Rs. 69,000/- has already been recovered from him and thus the remaining amount of 'Rs. 8,21,360/- is still to be recovered. The settlement dues cannot be claimed until a 'No due Certificate' is issued as per rules in vogue.



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7. The respondents have further explained that the applicant remained absent during the period from 01.04.2003 to 28.02.2005 and this period has been treated as leave without pay and therefore no payment could be admissible for the said period. They have also stated that the applicant is not entitled to get increment for the period during which he was on leave without pay as per para 606 (ii) (a) of the IREM Vol. 1 (Annex. R/1)

8. The applicant has filed rejoinder to the reply stating that contention of the respondents that some amount is due from him is not sustainable as 'no dues certificate' is issued by the department earlier and the respondents have never intimated the applicant that an amount of Rs. 8,21,360/- is due from him to the department. No details of the said amount was communicated to the applicant during his service career and no Show Cause Notice had been served on the applicant with reference to the said outstanding amount. The applicant has further stated that the amount Rs. 2,63,478 is not paid to him and has been kept under the head 'un paid'. It is further averred that his representations were not answered by the respondents till date. The applicant has requested that in the interest of justice this O.A may be allowed.



9. Learned counsel for the parties have been heard. They have generally reiterated the arguments already given in their respective pleadings. The learned counsel for the respondents has placed a copy of the Pension Pay Order (PPO for short) and the same was taken on record on 06.01.2009. He has also placed a copy of letter dated 31.10.2008, which reads as under:

A handwritten signature in black ink, appearing to be a stylized 'A' or a similar mark.

841 ई/1199/ई/2005

दिनांक 31.10.08

मुख्य विधि सहायक

उ. प. रे. बीकानेर

विषय - बी राधेश्वाम गुप्ता से.नि.

के समापन मुग्तान सम्बन्धी

तन्दर्भ - आपका पत्रांक 34-U-CAT / 07 - 47

दिनांक 18.9.08

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उपसूक्त सन्दर्भ में लेंछ है कि उक्त कर्मचारी के समापन मुग्तान का विवरण निम्नांकित है

१	उपदान	राशि
२	सा.जी.बीमा	2,731,22.00
३	जी.एफ.	19647. 00
४	पेन्नन रूपान्तरण	263478. 00
५	बकाया अर्जित अवकाश	333030. 00
		117139. 00

कर्मचारी के विलृप्त रेल प्रशासन की कुल बकाया राशि 821360/- है। जिसमें उपदान राशि एवं बकाया अर्जित अवकाश की राशि समायोजन करने के बश्चात शेष बकाया राशि की कटौती कर्मचारी को पेन्नन पर मिलने वाले महगाई भत्ते से की जाएगी पी.पी.ओ. की फोटो प्रति संलग्न कर दी गई है।



संलग्न :-

पी.पी.ओ. फोटोप्रति

कृते मंडल कार्मिक अधिकारी
उ. प. रे. बीकानेर

(Signature)

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10. The learned counsel for the applicant has stated that although PPO has been issued, but the applicant has not received any pension so far. Similarly he also explained in the Court that no retiral benefits as pointed out in the letter dated 31.10.2008 has been paid to him in spite of the fact that more than three months have passed. He requested that the respondents be given a time bound direction to release the retiral dues as he is facing financial hardship.

11. In this regard, the learned counsel for the respondents assured that he will pursue with the department for releasing the payment as given in PPO and letter dated 31.10.2008.

12. This case has been considered carefully and perused the documents placed on record. It is clear that the applicant had retired from service on 28.02.2005, whereas he has not been paid the retiral benefits so far as has been explained by the learned counsel for the applicant. On the other hand the respondents have explained that an amount of Rs. 8,90,360/- was outstanding against the applicant and a sum of Rs. 69,000/- had already been recovered and a sum of Rs. 8,21,360/- is still to be recovered from the applicant. The applicant has explained through his rejoinder to the reply that he has never been intimated that a sum of Rs. 8,21,360/- is still outstanding and the applicant had never been issued any show cause notice regarding recovery of the said



amount. He further pointed out that an amount of Rs. 2,63,478/- which stated to have been paid by the respondents has not been received by him and the amount has been kept under the head 'un paid'.

13. It is seen that the applicant in this Original Application has prayed for payment of his retiral benefits and has not stated anything with reference to the recovery said to be outstanding as explained by the respondents. The terminal benefits as claimed by the applicant have since been released by the respondents as per PPO placed on record on 06.01.2009 and letter No. 841-E/1199/EE/2005/Sett dated 31.10.2008. However, the applicant has submitted that no amount of pension as well as retiral benefits have been received by him sofar.

14. It is considered that the relief claimed by the applicant is stated to have been granted and the retiral benefits had been given to him, he has not stated anything with regard to the recovery from him.

15. In view of the above position and in the interest of justice, the respondents are directed to intimate the applicant the details of the cheques, date and amount of pension released vide PPO, placed on record on 06.01.2009. The respondents are also directed to furnish the details to the applicant about the cheque numbers and amounts stated to have been released vide their




letter dated 31.10.2008 referred to above. These details may be given to the applicant within a period of two weeks from the date of receipt of a copy of this order.

16. In case the applicant is still aggrieved with reference to the recoveries from his retirement benefits and details of payment relating to pension and retirement benefits, he is at liberty to file fresh O.A in this regard, if he is so advised.

17. The applicant has also pointed out that he has not been intimated about the details of outstanding Rs. 8,21,360/- and the amount Rs. 2,63,478/- as stated by the respondents, have also not been paid to him. If any amount is to be recovered from the applicant, the respondents are directed to issue show cause notice to the applicant in this regard. As recovery involves civil consequence, principles of natural justice is to be followed by the respondents. If satisfactory reply is not forthcoming from the applicant with regard to the show case notice the respondents may take action as per law.

18. The O.A is disposed of in the above manner with no order as to costs.

Cause No. 11-209
[Tarsem Lal]
Administrative Member

Jsv.

R/Copy
K.K.MA²
16/2/09

R/Copy
a 16/2
to
P.M.

Part II and III destroyed
In my presence on 8/2/10
under the supervision of
section officer () as per
order dated 07/07/2015

Section officer (Record)