

Central Administrative Tribunal

Calcutta Bench, Calcutta

Original Application No. 62/1997

This the 28th day of January, 2005.

Hon'ble Mr. D.C.Verma, Vice Chairman
Hon'ble Mr. G.R. Patwardhan, Administrative Member

R. Tata Rao S/o R. Sathi Raju Aged 60 years,
retired Area Project Manager, S.Rly, Rairakhol
from under the General Manager, SE Railway,
Garden Reach, Calcutta R/o 66-5-23 Kakinada
Distt. East Godawari, Andhra Pradesh.

... Applicant.

(By Mr. P.B. Misra, Advocate, for applicant)

Versus

1. Union of India service through
the Chairman, Railway Board &
Principal Secretary to the
Government of India, Ministry of Railways,
Rail Bhavan, New Delhi.
2. The General Manager,
S.E. Railway, Garden Reach,
Calcutta.
3. The Chief Administrative Officer,
S.E. Railway, Chandrasekharpur,
Bhubaneswar, Orissa.
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4. The Sr. Project Manager,
S.E. Railway, Angyl, Orissa.

... Respondents

(None for respondents).

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ORDER

(PER G.R. PATWARDHAN)

This is an application by R. Tata Rao, retired Area Project Manager of S.E. Railway against the Union of India and Senior Officers of S.E. Railway, Calcutta. An order dated 28.3.1995 of respondent No.3, the Chief Administrative Officer, and dt. 7.3.1995 of respondent No. 4, the Senior Project Manager, are under challenge. The application was filed on 17.1.1997 and its reply on 31.1.1998. Rejoinder was filed by the applicant on 28.7.2000. It is the admitted position that the applicant retired on 31.5.1994. The impugned orders are, therefore, admittedly issued after his retirement. The two impugned letters, as above mentioned, inter alia, informed the applicant that payment of gratuity has been stopped and that during verification of the quantity of work, it was discovered that false measurements were entered by the applicant and, therefore, he should attend the office of Senior Project Manager (respondent No.4), immediately failing which disciplinary action would be taken against him.

2. Paragraph 8 of the application seeks the following reliefs :-

- "a. The letter containing order stopping the dues of the applicant dated 28.3.95 & 16-5-95 at Annex. A-5, A-6 & A-7 should be quashed.
- b. The DCRG amount certified as in Annexure A-3 for Rs. 71,280/- by the FA & CAO with 18% interest should be paid.
- c. His pay in the scale Rs. 2375-3750 should be fixed w.e.f. 30.7.93 and the resultant consequential benefits with 18% interest should be

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paid including the consequential retiral benefits with interest.

- d. The survey and the construction allowance of Rs. 23,000 should be paid with 18% interest.
- e. Interest on delayed payment @ 18% as stated in para 4.4 on the retiral benefits should be paid."

3. In the application, it is maintained that all the work in the project assigned to the applicant was carried-out with due diligence. He has been paid the commuted value of pension and this proves that if at all there was anything irregular in his conduct before retirement, this commutation could not have been sanctioned. It is also maintained that he should be paid held to be entitled to revised pay scale and all arrears thereafter.

4. Reply has been filed by the Dy. Chief Personnel Officer on behalf of the respondents. It is mentioned that the amount of D.C.R.G. has been withheld because some over-payments were detected which were cleared by the applicant in the project between December 1992 to May 1995 and this surfaced only after investigation. A decision was taken to take disciplinary action against the applicant and a major penalty chargesheet had been issued on 14.1.1998. The reply also maintains that orders have been issued for payment of DCRG, Servant Construction Allowance, Revision of Pensionary benefits and, consequential arrears due to Re-fixation of pay in the pay scale of Rs. 2375-3750 (the scales sought by the applicant in paragraph 8(c) with the concerned officers. It is also maintained that the applicant was paid P.F. dues, CGEIS dues, Leave Encashment, Last Wages and

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Transfer Grant. Concluding, the reply suggests that the applicant un-necessarily moved the Tribunal as he has not exhausted the remedy which is available to him with the management. They have, therefore, prayed for dismissal of the application.

5. In the rejoinder to reply, following points have been made :-

(a) No Charge-sheet was issued before retirement, nor any Court case was pending at the time of his retirement and thus, non-payment of his retiral dues following the date of retirement, is illegal.

(b) Respondents are silent in their reply, whether his pay fixation has been done or the dates on which amounts were paid under different heads and in its absence, it is difficult for him to adjudge if correct payment has been made.

(c) As per standing instructions of Railways, a copy of pension calculation sheetssshould invariably be supplied to the pensioner and in this case, it is lacking.

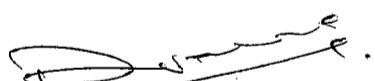
6. No one represented the respondents at the time of hearing the case and the learned counsel for the applicant maintained his case on the basis of the pleadings and sought the assistance of the Court in getting a calculation-sheet of thepayments made to him showing details of the amount due and paid and the period of delay. He also brought to the notice an order of this Tribunal in OA No. 17/1988 decided on 9.6.1989 - Bimalendu Banerjee Versus Union of India and Others relating to Eastern Railway, in which the Tribunal held that the DCRG is payable with

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interest @ 12% per annum - the period running from three months after the date of retirement. The reply and the rejoinder, make it abundantly clear that even after a chargesheet for imposing major penalty was issued on 14.1.1998, the respondents have passed orders for releasing payment of DCRG, pay fixation and arrears on account of revised pay. The pensionary benefits also seem to have been worked-out on the basis of revised pay. There is also an assurance that the Survey and Construction allowance of about Rs. 33,000/- is likely to be paid after verification. We are, therefore, of the view that the applicant is entitled for payment of interest at the rate of 12% per annum on all the amounts that have been paid to him after they became due. The respondents are, therefore, directed to calculate the same and arrange payment to the applicant within 90 days of the receipt of a copy of this order. Along with such payment, the respondents shall also enclose a calculation chart showing the nature of payment, the date on which it ~~should~~ became due, the date on which it was paid and the amount of interest calculated. The application stands disposed of accordingly with no order as to costs.

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(G.R.Patwardhan)
Administrative Member


(D.C.Verma)
Vice Chairman

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