

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. 277/1997

Present : Hon'ble Mr. Justice S.N. Mallick, Vice-Chairman.

Hon'ble Mr. B.P. Singh, Administrative Member.

DEBIPROSAD SAIN

-V E R S U S-

1. Union of India represented by the General Manager, Eastern Railway, 17, Netaji Subhas Road, Calcutta-700 001.
2. Chief Personnel Officer, Eastern Railway, 17, Netaji Subhas Road, Calcutta-700001.
3. Chief Engineer (S & C), Eastern Railway, Koilaghat, Calcutta-700 001.
4. Deputy Chief Engineer/Construction/ Circular Railway, Sealdah, Eastern Railway.

For the applicant : Mr. A.K. Banerjee, counsel.

For the respondents : Mr. R.M. Roychoudhury, counsel.

Heard on 1.5.2000

Order on 1.5.2000

O R D E R

S.N. Mallick, VC

In this O.A. the petitioner has prayed for the following relief:-

"8. (a) An order directing the respondents authority to make payment of due interest on Gratuity money of Rs.49,088/- which was not paid on the date of retirement or on next working day."

The application has been contested by the respondents by filing a reply.

We have heard Mr. Banerjee, Id. counsel appearing for the petitioner and Mr. Roychoudhury, Id. counsel for the respondents.

2. The petitioner has prayed for interest on the delayed payment of his gratuity money. The petitioner retired on superannuation w.e.f. 31.12.89. Prior to his retirement a major penalty chargesheet was issued against him and a disciplinary proceeding was initiated and he was placed under suspension w.e.f. 26.3.85. The said order of suspension was revoked w.e.f. 28.6.85. After his retirement the respondent authorities passed an order dated 31.10.90 as per Annexure-A which may be quoted below:-

4. Sri D.P. Sain, Ex.PWI was placed under suspension with effect from 26.3.85 as per DEN/Con/DB/SDAH's Order No. DEN/Con/DB/E/1 (Confdl) dated 26.3.85.
2. The said order of suspension was revoked with effect from 28.6.85 as per order issued by Dy.CE/Con/SPL/ERly/Calcutta
3. He was given a major penalty chargesheet by the charges against him was not proved, so he was only 'Censured'.
4. Now the undersigned on a careful consideration of the case has decided that the period of said suspension from 26.3.85 to 27.6.85 is to be treated as on 'Duty'."

The petitioner's grievance is that although he has got other retiral benefits much later the D.C.R.G. was paid to him only on 1.7.95 amounting to Rs.49,088/- . According to the petitioner there being no reasonable cause on the part of the respondents for such delayed payment, he is entitled to get interest on the aforesaid amount. We have gone through the reply furnished on behalf of the respondents. It is difficult to appreciate the stand taken by them in paragraph No.6.2. It is stated that a major penalty chargesheet was issued against him on 6.11.89 for negligence of duty and the disciplinary authority finally awarded punishment of censure under their memo dated 11.6.90 on a minor penalty chargesheet issued on 13.12.89. It is not, however, disclosed whether the major penalty chargesheet was dropped, withdrawn or cancelled and a minor chargesheet was issued. However, according to the applicant a major penalty chargesheet was dropped. The order passed in the major penalty chargesheet is, however, not enclosed by the respondents. It is only gathered from paragraph 3 of Annexure-A dated 31.10.90 that the petitioner was given a major penalty chargesheet "but the charges against him was not proved, so he was only 'CENSURED'". We fail to appreciate how a punishment of <sup>could</sup> ~~censure~~ should be imposed upon the petitioner even

in a minor penalty chargesheet when the charges ~~were~~ <sup>were</sup> admittedly not proved against him. However, in the present application there is no scope to look into this aspect. The only question is whether there was bonafide reason on the part of the respondents to delay the release of the D.C.R.G. amount even after the minor penalty chargesheet was finalised or completed. In paragraph 18 of the reply the respondents have sought to give an explanation for such delay which may be quoted below:-

" That with regard to paragraph 4(x) of the said application, the statements made therein are correct to the extent that a Railway Servant will get retiral benefits on the next date of his retirement but as the Disciplinary Proceedings was initiated against the applicant and also for non-receipt of "No Claim Certificate" from the concerned different units where the applicant worked from time to time, it was not possible to release the DCRG and Commutation value of pension before completion of Disciplinary Proceedings arising out of pecuniary loss of Railway materials amounting to Rs.69,850/- (approx) except provisional pension, GIS and arrear payment etc. position of which has already been stated at paragraph 12 hereinabefore."

From the above it is difficult to agree with the submission of Mr. Roychoudhury that there was reasonable cause on the part of the respondents to delay release of the D.C.R.G. to the petitioner. Mr. Roychoudhury has submitted that although the minor penalty proceeding was completed against the petitioner, a major penalty chargesheet was issued against one Sri T.P. Dhock, Material Clerk for the loss caused to the railway authorities where the petitioner was involved. After the death of the said Sri T.P. Dhock, the enquiry was closed and the 'No Claim Certificate' was received in favour of the applicant only on 4.4.95. We fail to appreciate how the involvement of the aforesaid Dhock in another departmental proceedings stand in the way of the petitioner in getting his D.C.R.G. amount in due time. The pendency of the disciplinary proceedings against Sri Dhock is no reason for making such delayed payment. The responsibility of getting 'No Claim Certificate' from the different units of the respondent authorities lie with the respondents

themselves where the petitioner has to play a little role nor his help was at any point of time was solicited in getting the said 'No claim Certificate'. Under such circumstances, we do not find any bonafide or lawful reason on the part of the respondents to make such delayed payment of the D.C.R.G. amount to the petitioner after his retirement on superannuation w.e.f. 31.12.89 or at least immediately after the order of ~~censure~~ was passed against him in the minor penalty proceeding on 11.6.90. Accordingly we allow this O.A. and we direct the respondent authorities to pay interest at the rate of 18% per annum on the D.C.R.G. amount of Rs.49,088/- from 12.6.90 till the date of payment within a period of eight weeks from the date of communication of this order. In view of the facts and circumstances, we also direct the respondents to pay a cost of Rs.10,000/- to the petitioner within the aforesaid period.



Member (A)



Vice-Chairman.

a.k.c