

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. 243/97

THURSDAY, THIS THE 23rd DAY OF SEPTEMBER, 1999.

C O R A M:

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

P.M. Devassia S/o Mathai
Retired Confidential Steno,
Office of the Chief Personnel Officer
North Frontier Railway,
Headquarters, Maligaon
residing at Kalathiparambil,
Nalukuzhi Post,
Changanassery.

..Applicant

By Advocate Mr. T.C. Govindaswamy

Vs.

1. Union of India through
the Secretary to the
Government of India,
Ministry of Railways,
Rail Bhavan,
New Delhi.

2. The General Manager (Personnel)
North Frontier Railway,
Headquarters office, Maligaon
Gawahatti.

..Respondents

By Advocate Mr. Thomas Mathew Nellimootttil

The application having been heard on 23.9.99, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant who retired from the service of North Frontier Railway on 30.9.93 and is facing a criminal trial instituted prior to his retirement, has filed this application for a direction to the respondents to pay him provisional pension w.e.f. 1.10.1993 with interest at the rate of 18% w.e.f. 1.10.93, to pay leave salary in lieu of leave on his credit with 18% interest, and also to pay the

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retirement gratuity.

2. The respondents resist the claim of the applicant on the ground that as the applicant is facing a criminal trial and as the records were in the Court, the provisional pension could not be finalised and paid. Regarding the claim for leave salary, the same is disputed on the ground that there is no Earned Leave to his credit. About the payment of gratuity, respondents contended that it could be paid only on the conclusion of the judicial proceedings.

3. When the case came up for hearing, the learned counsel of the applicant submitted that arrears of provisional pension has since been paid and the application may be disposed of directing payment of interest on delayed payment of provisional pension as gratuity is not payable till conclusion of the criminal trial and encashment of leave salary may be left to be agitated separately.

4 We have heard learned counsel for the parties. That the applicant retired from service on 30.9.93 and that the provisional pension was not disbursed till 13.3.97 are not in dispute. The reasons for not paying the provisional pension to the applicant till 13.3.97 as stated in the reply statement is that as the records and files were all in the Court, it was not possible to fix the provisional pension and make payment to him.

5. We are not at all convinced of the reasons put forth in the reply statement for not making the payment of provisional pension to the applicant. The applicant was placed under suspension on 29.8.93, only a month prior to his retirement. As per The Railway Service Pension Rules, preparation of the pension papers should have commenced and finalised well before the date on which the applicant was

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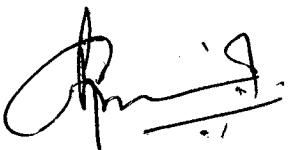
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suspended. The contention that the records happened to be in the Court, is not a valid reason for not disbursing to the applicant the provisional pension in due time. Even if the records were in Court it could have been possible for the department to go to the Court, verify the relevant records and compute the amount of provisional pension. Therefore, the applicant should have been paid the provisional pension at least after the expiry of three months from the date of his retirement on 30.9.93. That having been not done, we are of the view that the respondents are bound to compensate the applicant by payment of interest at least at the rate of 12% per annum.

6. In the light of what is stated above, the claim of the applicant regarding leave salary is left open to be agitated later. As the criminal proceedings against the applicant is still pending, the prayer of the applicant for a direction to pay gratuity at this juncture cannot be granted.

7. In the result, we dispose of the application directing the respondents to pay to the applicant interest at the rate of 12% per annum on the arrears of provisional pension w.e.f. 1.1.1994 till the date actual payment was made, within a period of three months from the date of receipt of a copy of this order. No costs.

Dated the 23rd September, 1999.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

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A.V. HARIDASAN
VICE CHAIRMAN