

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.317/98

Friday, this the 30th day of July, 1999.

CORAM:

HON'BLE MR J.L.NEGI, ADMINISTRATIVE MEMBER

K.K.Gopalakrishnan Nair,
S/o I.P.Krishna Pillai,
Leelasadanam,
Mariappally Post,
Kottayam. - Applicant

By Advocate Mr M.P.Varkey

Vs

1. Union of India represented by
General Manager,
Southern Railway,
Chennai-600 003.
2. Senior Divisional Personnel Officer,
Southern Railway,
Trivandrum.
3. Senior Divisional Accounts Officer,
Southern Railway,
Trivandrum.
4. Senior Divisional Commercial Manager,
Southern Railway,
Trivandrum. - Respondents

By Advocate Mr P.A.Mohamed

The application having been heard on 27.7.99, the
Tribunal on 30.7.99 delivered the following:

O R D E R

HON'BLE MR J.L.NEGI, ADMINISTRATIVE MEMBER

The applicant retired from service on 30.11.95 on
superannuation from the post of Chief Travelling Ticket Inspector,
Southern Railway, Kottayam. His pension papers were processed
in time and he was asked to receive his pensionary benefits at

Trivandrum on 4.12.95. But the applicant was not given Death-cum-Retirement Gratuity (DCRG for short) amounting to Rs.64,387 on the ground that some vigilance enquiry case was pending against him. A true copy of the same is at A-3. An enquiry was held against the applicant after retirement and the applicant's DCRG was withheld on this count. However, the findings of the enquiry officer was in favour of the applicant and the charges against the applicant were dropped. The 4th respondent accepted the findings of the enquiry officer vide his letter dated 29.1.97. A copy of the same is at A-4.

2. Learned counsel for the applicant submits that the delay in framing the charges and the timing of the charge memo solely rests with the respondents. If the applicant had indulged in any such misconduct calling for a major penalty, he would have been placed under suspension or issued with a major penalty charge memo forthwith, or sooner than the date of his retirement. The fact that none of these things happened until a few months before his retirement on 30.11.95 shows that the charge memo was not bonafide but was intended to delay the pensionary benefits of the applicant. He, therefore, contended that the applicant is entitled to be compensated for the delay in payment of his DCRG. Learned counsel for the applicant relied on a decision of the Principal Bench of the Hon'ble Tribunal in Prem Behari Sharma Vs Union of India and others, (1998) 37 ATC, 211.

3. Learned counsel for the applicant further submitted that on the date of applicant's retirement i.e. on 30.11.95, the applicant had submitted his travelling allowance bill for Rs.1310/- for November, 1995 to the authorities, a true copy of which is at A-6. It was contended that the respondents did not pay the same despite making representations and the applicant was forced to issue a

Lawyer notice dated 23.6.97 to the 2nd respondent demanding interest on delayed payment of DCRG, travelling allowance and productivity linked bonus.

4. It was further submitted that out of the above dues, the respondents had paid only the productivity linked bonus and did not respond to the other items demanded as per A-7 notice.

5. Learned counsel for the applicant submitted that the applicant is entitled to get 12% interest per annum on the delayed payment of DCRG amount of Rs.64,387/- for the period from 4.12.95 to 27.5.97 and also direction to release Rs.1310/- towards the travelling allowance for November, 1995 to the applicant.

6. Learned counsel for the respondents submitted that the claim for interest on delayed payment is not maintainable, since the applicant himself was responsible for the proceedings initiated against him. It was further submitted that for the purpose of assessment of interest, the applicant is liable to count the period after three months from the date when this payment became due to the date when it has been authorised.

7. As regards the travelling allowance for November, 95 it was submitted that there has been no claim from the applicant on the matter of TA as the applicant is not fair in expecting the payment of that TA from the respondents herein.

8. Learned counsel for the respondents admitted that in the enquiry, the applicant was exonerated and proceedings against him were dropped.

9. I have considered the submissions made by the learned counsel on either side.

b) The respondents are directed to pay 12% interest per annum on the delayed payment of DCRG amount of Rs.64,387/- for the period from 4.12.95 to 27.5.97.

c) Action on the lines shall be complied with within a period of three months from the date of receipt of a copy of this order.

14. There will be no order as to costs.

Dated, the 30th of July, 1999.


(J.L.NEGI)
ADMINISTRATIVE MEMBER

trs/29799

List of Annexures referred to in the Order:

1. A-3: True copy of Pension Payment Advice No.P.500/TVC/P/060 4203386 dated 1.12.95 issued by the 3rd respondent.
2. A-4: True copy of letter No.V/VO/T/FR/66/95 dated 29.1.97 issued by the 4th respondent.
3. A-6: True copy of summery of travelling allowance bills for November 1995 submitted by Chief Travelling Ticket Inspector, Southern Railway, Kottayam.
4. A-7: True copy of Lawyer notice dated 23.6.97 issued by Adv. M.P.Varkey to the 2nd respondent.