CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

O.A. No. 377/90(L)

Har Prasad   Applicant

versus

Union of India through
Secretary, Ministry of Railways
and two others.   Respondents.

Hon. [illegible], Judicial Member.

The applicant has approached this Tribunal under section 19 of the Administrative Tribunals Act, 1985 for directing the respondents to pay the amount of interest on commutation of pension, gratuity, arrears of pension and [illegible] to the tune of Rs 13,904 as worked out in details in para 4.14 of the application and for directing the respondents to [illegible] the leave encashment of Rs 15,890.00 together with interest at the rate of Rs 18% per annum from 1.4.89 to 31.10.90 to the tune of Rs 4,528 as worked out in details in para 4.15 of the application, and for further directing the respondents to clear the claim of payment of Group Insurance Scheme with interest from 1.4.89 till the date of payment.

2. Briefly stated, the facts of this case, inter alia, are that the applicant was appointed as Booking Clerk

in N.E. Railway with effect from 1.3.1957 and after serving as Booking Clerk for 15 years, the applicant was promoted as Senior Booking Clerk and ~~and~~ in the year 1987 the applicant was promoted as Head Booking Clerk in the revised scale of Rs 1400-2300. The date of birth of the applicant was March, 31, 1931 and as such the applicant was to retire on 31.3.89(Afternoon) after attaining the age of superannuation as 58 years. Despite the information to the effect that the applicant will be retiring on 31.3.89, the applicant was allowed to continue to work as Head Booking Clerk till 9.5.89 and was retired only in the afternoon of 9.5.89 and the period from 1.4.89 to 9.5.89 was treated as re-employment period and excess payment of Rs 924.00 on account of service rendered from 1.4.89 to 9.5.89 was recovered from gratuity as indicated in the P.P.O. (Annexure A-7) Despite repeated requests after his retirement through his letter dated 20.8.89 and 12.1.90 to the D.R.M. Lucknow and other letters to the authorities concerned as mentioned in para 4.18 of the application no payment was made even by way of provisional pension in respect of the retiral benefits of the applicant, ~~was made~~ hence the applicant approached this Tribunal for relief sought for as due to inordinate delay in making payments by the respondents, the applicant has suffered a lot.

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3. The respondents, in their counter affidavit have resisted the claim of the applicant, inter alia, on the grounds that there was no inordinate delay in making payment of the retiral benefits to the applicant and whatever delay was, that was caused due to regularisation of the period which the applicant worked beyond the due period of his retirement i.e. from 1.4.89 to 9.5.89. It has further been contended that the applicant filed his pension papers on 10.5.89 which were received in the office on 12.5.89 and since the applicant worked from 1.4.89 after the age of his superannuation, therefore, his case was sent to D.R.M.(P) Gorakhpur for obtaining sanction of the competent authority for regularisation of that period and therefore, reasonable time was required for all these things. It has further been contended that due to clerical error, the applicant was allowed to work from 1.4.89 to 9.5.89 and the clerk concerned is being dealt with properly for his lapses. It has further been contended that as per rules only 7% interest for delay upto one year and 10% beyond one year delay after 3 months from the date of retirement of the employee concerned is payable. But in this instant case this does not apply as the applicant is himself responsible for delay. Thus, in view of the above circumstances, the plaintiff is not entitled for any interest and the application of the applicant is liable to be dismissed with costs.

4. In the Rejoinder application the applicant has reiterated almost all these facts as mentioned in the application. However, it has further been stated that the amount of leave encashment should have been paid to the applicant as early as possible but the amount of Rs 11,655 only was paid on 4.4.91 as amount of leave encashment was due for 7 months as stated in the original application and the amount paid to the tune of Rs 11,655 approximately represents the amount for five months only.

5. I have heard the learned counsel for the parties and have thoroughly gone through the records of the case.

6. The learned counsel for the applicant while drawing my attention to the pleadings of the parties, and the papers annexed thereto and the provisions of Chapter 8 "Pension Scheme" (Railway Establishment Rules and Labour Laws by B.S. Mainee at page 461 to 478) and also to the Railway Board letter No. E(G)84-P... 1-8 dated 18.6.84, has argued that the intention lurking behind the pension scheme as well as in the aforesaid Railway Board's letter is to provide immediate relief to the retiring employees and with this end in view the department concerned shall make ~~expeditious~~ strenuous efforts to make expeditious payments of pension and other retiral benefits and has further

argued that the respondents are liable to pay penal interest at the rate of Rs 18% for inordinate delay in paying the aforesaid retiral benefits to the applicant and the penal rate of interest should be allowed against the respondents from 1.4.89 to the actual date of payment made by the respondents @18% per annum. as the applicant has been deemed to have retired in the afternoon of 31.3.89, ~~As the applicant has been deemed by the respondents to have retired on 31.3.89~~ though, in fact the applicant worked upto 9th May, 1989 and in support of his arguments he has placed reliance on the following rulings:—

1. 1985, SCC(L&S) at page 278 State of Kerala and others (Appellants) vs. M. Padmanabhan Nair (Respondents) wherein it has been enunciated:

"Labour and Services-Pension-Prompt payment of, is Government's duty, failing which Government liable to pay penal interest to the pension-gratuity should be paid on the date of retirement or on the following day and pension should be paid at the expiry of the following month-Collection of requisite information and issuance of Last Pay Certificate and No Liability Certificate should be completed a week before the date of retirement-Treasury officer obliged to issue to every retiring Government servant Last Pay Certificate in time and would be liable in case of any unexplained, unjustified and

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culpable delay in issuing the same-Treasury Code, Rule 186- Gratuity."

2. (1988) 7, ATC page 49-50(Central Administrative Tribunal, New Delhi) "[illegible] Sharma,(Petitioner) vs. Union of India & others(Respondents) wherein it has been enunciated:

"Pension-Delay in payment of -Pension wrongfully reduced-Payment not made properly even after High Court order-Delay held culpable-Interest allowed at 18 per cent p.a."

7. The learned counsel for the respondents while drawing my attention to the pleadings of the parties and the papers annexed thereto has argued that there was no wilful or any negligence delay in finalizing the matter of the applicant as due to clerical mistake the applicant, who was virtually to retire on 31.3.89 was retired in the Afternoon of 9.5.89 due to some wrong entry by the official concerned in the record; and has further argued that due to this mistake of the official concerned, the matter was referred to the General Manager for regularisation of the excess period; and has further argued that the pension papers of the applicant were received in the office of the respondents on ~~[illegible]~~ 12.5.89 and as such the respondents should not be saddled with the responsibility of paying penal interest; and has further argued that ~~the~~ utmost

applicant can be allowed interest at the rate of 7% for delay upto one year and interest at 10% for delay beyond one year, delay beyond three months from the date of retirement.

8. This is significant to point out from the perusal of the pleadings and from scrutiny of the entire record on file it becomes obvious that the following categories of the retiral benefits were paid to the applicant by the respondents on the dates as indicated against each of them:-

		Date on which payment was made:
Amount of gratuity & amount of commutation of pension amounting to	[illegible]3,306/	4.5.90
Amount of arrears of pension and D.A.	Rs 12,768/	13.7.90
Amount of T.A. Transfer Grant	Rs 1350/	12.6.90
Amount of leave encashment	Rs 11,635/	4.4.91
Amount of Group Insurance	Rs 1852/	20.5.91

From the perusal of the para 13 of the counter affidavit of the respondents and para 10 of the rejoinder affidavit of the applicant it becomes obvious that the applicant's 'Pension papers' were received in the office of respondents on 12.5.89 though the same should have been submitted by the applicant must be on the due date of his retirement and thus it is being so, the respondents cannot be held wholly responsible for delay which occurred regarding payment of pension, gratuity and commutation of pension.

9. Thus, from the foregoing discussions and after scrutinizing the entire material on record and keeping in view the facts and circumstances of the case and all aspects of the matter and keeping in view the principles of law as enunciated in the above rulings, I find that the ends of justice would be met, if the respondents are directed to pay interest to the applicant on the aforesaid amounts of gratuity, commutation of pension, arrears of pension and D.A. and T.A. & Transfer Grant as detailed above for the period of one year at the rate of interest of 15% (fifteen percent) per annum, and on the amount of leave encashment and on the amount of Group Insurance as detailed above for the period of two years at the rate of 15% (fifteen percent) per annum; and I order accordingly. The respondents are directed to pay the amounts of interest on the aforesaid amounts at the aforesaid rate within a period of one month from the date of the receipt of the copy of this judgment.

10. The application of the applicant is allowed as above. No order as to costs.

14.5.92

Member Judicial.

Dated: 14.5.92

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