

In the Central Administrative Tribunal,

Patna Bench : Patna

Date of Order:- 11.2.1998

Registration No. OA 718 of 1995

Thakur Prasad, Son of Late Murati,
Ex-Assistant Engineer, under Chief Engineer,
N.E.Railway, Gorakhpur, resident of Village Bairia,
P.O. CPS - Kasia, District Padrauna (U.P.),
at present residing at 63, Housing Board Colony,
Bhagalpur (Bihar)

... Applicant

By Advocate, Mr. Sudama Pandey.

Versus

1. The Union of India, through the General Manager,
N.E.Railway, Gorakhpur (U.P.)
2. The Financial Adviser & Chief Accounts Officer,
N.E.Railway, Gorakhpur (U.P.)
3. Chief Engineer, N.E.Railway, Gorakhpur (U.P.)

... Respondents

By Advocate, Mr. P.K.Verma

Coram:- Hon'ble Mr. Justice V.N.Mehrotra, Vice-Chairman

Hon'ble Mr. R.Rangarajan, Member (Administrative)

ORDER

Hon'ble Mr. R. Rangarajan, Member (Administrative):

1. Heard Shri Sudama Pandey for the applicant

and Shri P.K.Verma for the Respondents.

2. The applicant in this O.A. while working as Assistant Engineer in the North Eastern Railway at Gorakhpur was ^{to be} retired from service on 31.1.90 as date of birth of the applicant was recorded in the official record as 10.1.1932. He was retired from service w.e.f. 13.10.91 on the ground that he had already attained the age of 58 years i.e. age of superannuation on 31.1.90. It is stated that since the applicant had not informed anything about his actual date of superannuation the Railway Administration issued the orders dated 13.10.91 retiring him from service on 13.10.91 (FN) as per the telephonic instruction from the Dy. Chief Personnel Officer, G.M.'s Office, North Eastern Railway, Gorakhpur. Against the above-said order the applicant filed OA-121/92. That O.A. was disposed of by order dated 4.8.93. The operating portion of this order reads as follows:-

"We are left in no doubt that the Railway administration acted in a haste in ordering the retirement of the applicant. Hence we quash the impugned order dated 13.10.1991 with a direction that the applicant shall be deemed to be in service from the date he was retired and he be paid fully wages for the intervening period. These directions shall be complied with by the respondents within a period of two months from the date of communication of this order. After making compliance of this order as aforesaid, the respondents shall be at liberty, if so advised, to hold an inquiry into the question of correction of date of birth of the applicant as has been alleged by him with prior notice to him and in doing so, they shall afford reasonable opportunity to the applicant to defend his case."

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3. In pursuance of the above directions in OA-121 of 1992 the Respondents reinstated the applicant in service and held an inquiry in regard to the correct date of birth of the applicant by letter No.C/78/CAT/1876/Engg/SPJ Patna-92 dated 1/2.12.93 (Annexure-A/2 to this O.A.). By the order No.E/256/Engg/30/920 dated 15.3.94 (Annexure-A/1 to this O.A.) the Railway Administration decided that his correct date of birth stands as 10.1.1932. Accordingly the applicant was retired with immediate effect having already crossed the age of superannuation by the said order dated 15.3.94.

4. Against the order dated 15.3.94 the applicant filed OA_131 of 1994 on the file of this Bench of the Tribunal which was disposed of on 25.1.1995 rejecting his contention and dismissing the application without any order as to costs.

5. The applicant filed Review application No.9 of 1995 on the file of this Bench of the Tribunal against the order passed in OA_131 of 1994 which was also dismissed on 26.5.1995.

6. This O.A. is filed praying for directions to the Respondents to make immediate payment of provident Fund, pension, commuted value, DCRG, GIS,

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leave encashment, transfer and packing allowance and TA etc. with penal interest of 20% from the date of superannuation till date of actual payment.

7. When the O.A. was taken up for hearing today, 9.2.98, the learned counsel for the applicant submits that he had received the final settlement dues and also the payment for the intervening period as directed in OA-121 of 1991. But he submits that the payments were made belately and hence he is eligible to get interest at the rate of 20% on the amount of delayed payments. He also submits that an amount of Rs. 5,000/- has been kept back allegedly to recover electricity consumption during the period he served in the Railways occupying Railway Quarters and also increment during that period.

8. In the prayer in this O.A. there is no mention in regard to non-payment of kept back amount of Rs. 5,000/- and also payment of arrears due to non-grant of increment. Hence, the applicant cannot pray for reliefs which are not asked by him in this O.A. Hence, we do not consider proper to grant any relief in regard to these two claims. Moreover, the applicant has not said that final settlement dues ^{above two claims} includes the/also. Hence, it will not be in order to press for these payments at this juncture. The learned counsel

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for the applicant submits that he is withdrawing these two claims and taking necessary action as per the Rule later.

9. Hence, the only point in this O.A. for consideration is whether the applicant is entitled for interest on the amount of alleged delayed payments of retiral settlement dues i.e. Provident Fund, Pension, commuted value, DCRG, GIS, leave encashment, transfer and packing allowance and TA etc.

10. The Respondents in their reply submit in para 10 that Provident Fund amount of Rs.1,76,836/- , leave encashment amounting to Rs. 37,536/-, GIS amounting to Rs. 4,392/- has been arranged to him on 25.9.95, 15.2.96 and 23.8.96 respectively. Even the gratuity and the commutation amount amounting to Rs. 1,05432/- has been paid to him vide cheque No.018759/2937931 dated 29.11.1996 payable on State Bank of India, Main Branch, Deoria as per his request. Pension Payment Order to him was also issued to the said State Bank vide PPO No.NE/10118/217348 dated 30.10.1996. The Respondents submits that it took time to arrange payments of his settlement dues as his personal case was not readily available due to Court case.

11. The applicant has filed his Rejoinder to the reply. In this rejoinder at page 14^{he} has given

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details of various arrears which have been received by him. The salary for intervening period from 13.10.91 to 4.8.93, the date on which the order in OA-121 of 1992 was passed, was paid to him short. Further he also claims that the payment made for the period is not full and wages from 5.8.93 to 21.2.93 is still left over.

12. Full salary for the intervening period as per the direction in OA-121 of 1992 has not been paid to him submits the applicant afresh now. The relief in this O.A. does not include that. Hence, he has to submit a separate representation to the Respondents for necessary action, if the payment is short and payment has not been made for certain period as per the directions in O.A.-121 of 1992. However, we find that the applicant himself says that the short payment is only to the extent of less than Rs. 10,000/-, though the Respondents submit that it has been fully paid. It is for the applicant to reconcile the amount of his claim with the Railway Administration. Moreover, the applicant should be happy that he had been paid very high sum for the period he had not worked. That itself should satisfy him.

13. The Respondents submit that the applicant is not eligible for any interest in view of the directions given by this Tribunal in MA-116 of 1994 in OA-121 of 1992. In that MA the Respondents in the O.A. sought



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clarification about the term "intervening period" as stated in the operating part of the order of this Tribunal dated 4.8.93 passed in OA-121 of 1992. That was clarified in that MA by this Tribunal. It is also stated in the ^{order in the} ~~MP~~ that the applicant is not entitled for any interest. The learned counsel for the Respondents in this OA submit that in view of the directions in MP-116 of 1994 in OA-121 of 1992, the applicant is not entitled for any interest ~~on~~ the alleged delayed payments of the final settlement dues.

14. We have perused the order in MP-116 of 1994 in OA-121 of 1992. Reading of the order clearly indicates that the Tribunal has denied interest to the applicant only on the amount payable for the intervening period. It is evident from the order that it does not pertain to the payments of interest for the alleged delayed final settlement dues. Hence, the submission of the Respondents that the interest on the final settlement dues had already been rejected by this Tribunal in the above-said MP is not sustainable.

15. Hence, the only direction which is required to be made in this O.A. is whether the applicant is entitled for interest on the final settlement dues, namely, General Provident Fund amount, ~~o~~ pension, commuted value, leave encashment. The applicant filed OA-121 of 1992 when he was retired from service telegraphically.

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That OA was disposed of by order dated 4.8.93, the directions of which had already been extracted above. In pursuance of the directions an inquiry was made by the Respondents and the applicant was retired from service by the impugned order dated 15.3.94 which he assailed in OA-131 of 1994. That O.A. was dismissed by order dated 25.1.95. The applicant filed RP-9 of 1995 against the order passed in OA-131 of 1994. That RP was disposed of by order dated 26.5.95. In the meantime the Respondents filed the MP-116 of 1994 in OA-121 of 1992 seeking clarifications about the meaning of the term 'intervening period' as stated in the operating part in the order in OA-121 of 1992. That MA was disposed of by order dated 11.2.95. It is also stated that the applicant had also filed a contempt petition for non-implementation of the order in OA-121 of 1992. Thus, from the above narration of the events in this case, it is evident that there were a number of petitions filed in this O.A. for various reliefs/clarifications. All these matters were set at rest at last when the RP-9 of 1995 was disposed of on 26.5.95. Thus, when the Respondents submit that they were not sure of the retirement of the applicant till all the cases were finalised and because of that

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the final settlement dues ~~were delayed~~, it has to be held that there is enough substance in that submission. The Respondents in their reply also submit that the payments of final settlement dues took sometime as the personal case was not readily available due to Court case. This submission also is to be given due weightage as personal case could have been called for disposing the OA and also for making necessary reply statements. Under the circumstances we are of the opinion that there are no wilful intentions on the part of the Respondents to delay the payments of final settlement dues. The final settlement dues appear to be delayed due to the Court case and for getting necessary orders from the competent authority on the basis of various orders passed in the Original Application.

16. However, the settlement dues pertaining to the General Provident Fund need not to have been delayed for a long time after the passing of the judgment dated 25.1.95 in OA-131 of 1994 as the dues are his personal ~~payments or the money was~~ paid by the applicant ~~to his~~ provident fund account. Hence, when the OA-131 of 1994 was disposed of the Respondents could have been taken immediate action to release his provident fund amount urgently, but it looks that the payment on that account also was delayed. Hence, it is our considered view that



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the applicant should have been compensated by the payment of interest for the delayed payment of his provident fund amount, though the claim for payment of interest on other delayed paid amount is not justified.

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The applicant submits that he has submitted all the relevant forms immediately after the issue of the impugned order dated 15.3.94 retiring him from service for payments of final settlement dues. We are not sure of that statement. It is also not clear whether it is necessary to fill up any form or file an application by the applicant for disbursing the general provident fund amount after retirement lying in his GPF account. Hence, the applicant is entitled for payment of interest on the delayed payment of general provident fund dues, if he has applied for payment of that amount as per rule.

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In the result the following directions are given:-

(i) The Respondents are directed to pay an interest of 12% on the dues of the General Provident Fund payable to the applicant for the period from 25.1.95 till the date of actual payment (paid either in person or through cheque sent to the Bank), if the required duly filled form/application to be submitted in time by the applicant as per rule is submitted on or before 25.1.95. If it is submitted after 25.1.95, then the applicant is entitled

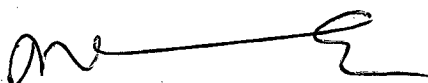
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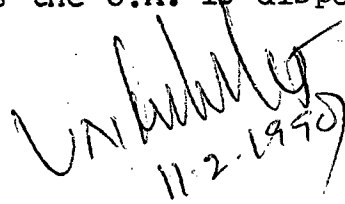
for interest on GPF dues from the date of submission of the required documents till the dues are paid as indicated above.

(ii) The above directions should be complied within three months from the date of receipt of a copy of this order.

19. With the above directions the O.A. is disposed of. No costs.



(R. Rangarajan)
Member (A)


11-2-1990

(V.N. Mehrotra)
Vice-Chairman

SKS

