

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA

O.A. No. 42 of 1996

Date of order -4-1998

Ganesh Sharma, aged 59 years, S/o Late Achhuta Sharma, Retired
T.C.N.E. Railway, Siwan, resident of Village Ekma Bhatoli,
PO Ekma, District Saran (Bihar).

.. Applicant

-versus-

1. The Union of India through the General Manager, N.E. Railway, Gorakhpur (U.P.).
2. Divisional Rail Manager, N.E. Railway, Varanasi (U.P.).

... Respondents

CORAM: Hon'ble Mr. Justice V.N. Mahrotra, Vice-Chairman

Hon'ble Shri L.R.K. Prasad, Member (A)

Counsel for the applicant .. Shri Sudama Pandey

Counsel for the respondents .. None.

ORDER

Hon'ble Shri L.R.K. Prasad, Member (A):-

The applicant has filed this O.A. against non-payment of retirement benefits i.e. Retirement Gratuity, Pension and commuted value of pension, leave encashment, P.F., Packing/Transfer allowance, etc. and other dues, if any, with effect from 31st May, 1991.

2. It has been alleged by the applicant that as per his date of birth, he should have superannuated with effect from 31.5.1994 after completing 58 years. However, he was forcibly retired with effect from 31.5.1991 by the respondent no. 2. In spite of repeated representations, the respondents

have not paid him his retiral benefits even from 31.5.1991. The applicant claimed that he was entitled for grant of all his settlement dues/retirement benefits such as P.F., Pension, DCRG, GIS, leave encashment, etc. with effect from 31.5.1991 as per law and prescribed instructions. In spite of repeated representations made to the concerned authorities and statutory rules and orders contained in letter of Ministry of Railway (Railway Board) New Delhi, not a single farthing had been paid to the applicant till date on account of retiral benefits, without assignment of any reason. It has also been stated by the applicant that he was neither found guilty of grave misconduct ~~or~~ nor ^{he} caused any pecuniary loss to the Government. No show cause notice in this regard was served on the applicant. It was argued on behalf of the applicant that the Hon'ble Supreme Court had held that pension and Gratuity must be paid at the earliest. The claim of the applicant is that interest at the rate of 18% should also be paid for delayed payment. No provisional pension has been sanctioned as a result of which the applicant has been facing great financial hardship. The applicant has also stated that his wife breathed her last on 18.12.1994 for want of proper medical treatment, due to financial problems.

3. As per the direction of this Bench, the applicant filed supplementary affidavit disclosing facts regarding his service. Through this affidavit, the applicant has stated that he was initially appointed on 20.12.1954 as Rakshak/RPF under administrative control of Chief Security Officer, N.E. Railway and continued to work regularly. When decategorized on 20.12.76, he was transferred to Varanasi Division and absorbed in Group 'D' post on 1.1.1977.

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Subsequently, he was promoted as Ticket Collector in January, 1991 in the scale of Rs. 950-1500/- (Annexure-2 of the supplementary affidavit). He also reiterated that he continued in this post till 31.5.1991 when he was forcibly retired due to wrong entry of date of birth as 9.5.1933 in railway record; instead of actual date of birth as 9.5.1936. On this issue, the applicant had filed O.A. 306/91 which was disposed of on 25.4.1992 with directions to dispose of representation dated 3.5.1991 of the applicant within a period of three months. In spite of all these, the applicant was retired on 31.5.1991. After retirement on 31.5.1991, the applicant submitted all the settlement applications in prescribed forms for grant of retiral benefits but the respondents have failed to make any payment on one plea or other including non-traceable of service records of the applicant prior to 31.12.82. It was stressed that it was the responsibility of the respondents to ensure timely payment of retiral benefits to the applicant.

4. It is observed that in spite of sufficient time ^{given} to the respondents to file written statement with reference to notices issued to them, they have failed to file any written statement. In view of this and as the applicant claimed that he had not been paid any retiral benefits since his retirement on 31.5.1991 and keeping in view the humanitarian angle, we were compelled to consider the case ex-parte. The compelling reasons for holding up the pensionary benefits of the applicant for such a long time by the respondents are not clear to us. We feel that in the normal circumstances, admissible retirement benefits should be paid to the claimant in time as per prescribed rule. However, if there is any problem, such problem should be sorted out without any delay.

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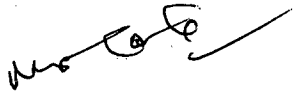
so as to ensure payment of admissible dues in accordance with law within shortest possible time. In the instant case, we find that the applicant retired from service with effect from 31.5.1991. There was some problem, which delayed the matter but it cannot be allowed to remain pending indefinitely. The main prayer of the applicant is that the respondents be directed to make immediate payments of final full pension, commuted value of pension, P.F., Gratuity, leave encashment, packing allowance and other pending dues, etc. with penal interest of 18% up to the date of actual payments made.

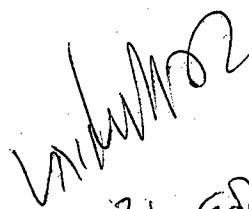
5. We have heard the learned Counsel for the applicant and perused the materials on record. It is unfortunate that even though sufficient time was given to the respondents to file written statement with reference to the case of the applicant, the respondents did not file any written statement. As the matter relates to payment of retiral benefits to the applicant and the fact that the applicant retired on 31.5.1991, we have no alternative but to consider the case ex-parte. We are of the opinion that the prayer of the applicant relating to payment of outstanding retirement benefits should be considered and disposed of by the respondents on priority basis within a prescribed period.

6. In view of the above discussion, the concerned respondents are directed to consider the prayer of the applicant for payment of his outstanding retiral benefits such as pension, P.F., leave encashment, commuted value of pension, Gratuity, etc. and determine the admissible amount within a period of two months in accordance with law, on receipt of this order.
The admissible amount of retiral benefits, payable to the

Mr. C. S. Rao

applicant, should be paid to him within a period of one month thereafter. With the aforesaid direction, the O.A. 42 of 1996 is disposed of accordingly with no order to the costs.


(L.R.K. Prasad)
Member (A)


3.4.98
(V.N. Mehrotra)
Vice-Chairman

Mahto