

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH, B O M B A Y.

Dated the 16th day of July, 1987.

Present

HON'BLE MR. JUSTICE K.S.PUTTASWAMY VICE-CHAIRMAN
AND
HON'BLE MR. L.H.A. REGO .. MEMBER (A)

ORIGINAL APPLICATION NO.132 of 1987

Krishna Kumar Gupta
through his Constituted Attorney,
Chaitanya Mani Jha of Bombay Indian-
Inhabitant and residing at Bombay-17
"Abhilasha",
Shivaji Road, Kandivli (West)
BOMBAY-400 067.

(By Shri S.Radhakrishnan, Advocate)
and shri C.M.Jha, "
-vs.-

1. Union of India
represented by the General Manager,
Western Railway Head Quarters,
Churchgate, Bombay-400 020.
2. The Chief Health Superintendent,
Jagjivan Ram Hospital, Western-
Railway, Bombay Central,
Bombay-400 008. .. Respondents.
(Mr. A.E.Kasturey, Counsel for respondents)

Application coming on for hearing this day,
PUTTASWAMY, J. (Vice-Chairman) made the following;

ORDER

This is an application made by the applicant
under Section 19 of the Administrative Tribunals
Act, 1985 (Act).

2. On 26th March, 1962, the applicant was appointed
as a Radiographer in the Jagjivan Ram Hospital, Western
Railway, Bombay Central of the Indian Railways. While
working in that hospital, the applicant was deputed to

serve

serve on 'foreign service' for a period of 2 years from 20-6-1980, where he continued to serve till 18-12-1984 and then reported for duty on 19-12-1984.

3. On 26-8-1985, the applicant moved the Competent Authority to permit him to voluntarily retire from service with effect from waiving the notice period under the Rules. On 8-10-1985 (Exhibit-D), the Competent Authority permitted the applicant to retire from service from 9-10-1986. But, notwithstanding the same, pension and other terminal benefits due to the applicant were not settled and therefore on 29-2-1987, the applicant has approached this Tribunal for appropriate orders.

4. On the reasons for withholding the settlement of pension and other terminal benefits due to the applicant, the respondents have asserted that he was due in a sum of Rs.5,780/- towards 'foreign service' contribution (FSC) and a sum of Rs.2,621/- as interest thereon and if those amounts were paid by him, then they will treat the period of 'foreign service' as qualifying service for pension and settle the pension and other terminal benefits due to him with expedition.

5. Shri C.M.Jha, learned Counsel for the applicant, in our opinion, very fairly and rightly does not dispute the liability of his client to make payment of Rs.5,780/- as foreign service contribution and agrees to make payment of that amount. But, he however urges that the authorities be directed to receive only that amount and waive the interest thereon.

6. Shri A.L.Kasturey, learned Counsel for the respondents contends that the applicant was bound to pay the FSC and the interest thereon, as interest cannot be waived by Government or by this Tribunal.

7. On the quantum of FSC payable by the applicant which is a condition precedent for settlement of pension and other terminal benefits under the Indian Railway Establishment Code (Pension) Rules, 1965, there is now/no controversy between the parties. The applicant is ready and willing to pay that amount. In this view, the only controversy that requires examination remains is the payment of Rs.2,621/- towards interest.

8. Under Rule 2280 of the Indian Railway Establishment Code, the applicant is bound to pay a sum of Rs.2,621/- as interest on the FSC. The liability is fastened by law. We cannot therefore even direct the authorities to waive that amount. We, therefore, reject the prayer of the applicant to waive the interest of Rs.2,621/-.

9. Shri Jha prays for one month's time from this date for payment of Rs.8,401/- due to Government. We are of the view that this request of Shri Jha is fair and reasonable.

10. In the light of the above discussion, we make the following orders and directions:

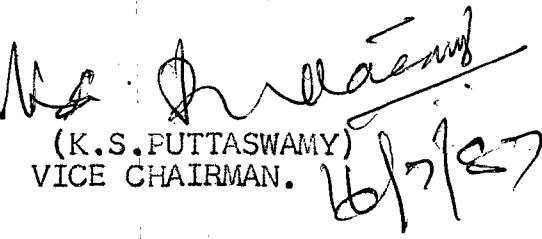
(i) We direct the applicant to deposit a sum of Rs.8,401/- towards FSC and interest thereon with the authority that is competent to receive the same, namely, The Senior DAO, Western Railway, Bombay Central, within one month from this day and that on such deposit by him, the respondents are directed to settle

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the pension and other terminal benefits due to him with all such expedition as is possible in the circumstances and in any event, within 2 months from the date of receipt of that amount from the applicant.

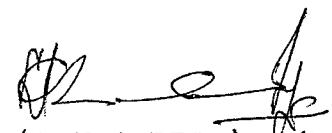
11. Application is disposed of in the above terms. But in the circumstances of the case, we direct the parties to bear their own costs.

12. Let this order be communicated to the parties within 10 days from this day.


(K.S. PUTTASWAMY)

VICE CHAIRMAN.

6/7/87


(L.H.A. REGO)

MEMBER(A)

6.7.87

kms/-