

CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA

OA No. 702 of 2005

Patna, dated the 9<sup>th</sup> December, 2005

**CORAM: The Hon'ble Mr. Mantreshwar Jha, Member[A]**

**The Hon'ble Ms. S. Srivastava, Member[J]**

**Diwakar Singh, son of Late Satrughan Singh, Retd. Asstt. Electrical Engineer[G]/E/Rly./Sealdah, resident of Prabhat Nagar Colony, PO Bhagwanpur, District Muzaffarpur.**

Applicant

Applicant-in-Person

versus

1. The Union of India, through the General Manager, E.Railway, 17, Netaji Subhash Road, Kolkata.
2. The Chief Personnel Officer, E.Rly. 17, Netaji Subhash Road, Kolkata.
3. The Chairman, Railway Board, Rail Bhawan, New Delhi-1.

Respondents

By Advocate: Shri A.A.Khan

**ORDER**

**Mantreshwar Jha, Member[A]:-**

The applicant retired as Assistant Electrical Engineer



[G]/E.Rly./Sealdah on 1.3.1997. Five sets of major penalties charges were issued by the General Manager Eastern Railway against the applicant during 1993-94. The applicant filed an OA 29 of 1997 for completion of departmental proceedings on time. The respondents were directed to complete the same within eight months but the departmental proceedings remained pending. The respondents continued to ask <sup>for</sup> more time through various MAs. Since the time for completion of departmental proceedings had expired, the applicant filed contempt petition in the Calcutta Bench of the Tribunal which vide order dated 20.8.2004 directed as follows:-

“The applicant's grievance in this contempt petition is that because of delay in disposal of the disciplinary proceedings there was financial loss of interest on his gratuity amount. Since the order of the Tribunal has been implemented, the application for contempt proceeding is closed. However, if the applicant is still aggrieved he can file separate application for redressal of his grievance.”

2. The applicant has, therefore, filed this OA for an order directing the respondents to make payment to the applicant for the financial loss on account of delayed payment of DCRG. The



applicant has also prayed for cost against the expenditure incurred by the applicant in result of series of cases he had to file.

3. The main plea of the applicant is that the delay in the completion of D&A proceedings was solely on account of lapses and inaction on the part of the respondents for which the applicant cannot be punished. For the departmental proceedings, it is submitted that when the reference was made to the UPSC regarding the proposed punishment, the UPSC came to the conclusion as follows:-

“The Commission observe that the ends of justice would be met in this case if the charged officer Shri Diwakar Singh is exonerated of the charges. We advise accordingly.”

The relevant extract of advice of UPSC is contained at Annexure-F at page 60 of the OA.

4. The applicant has also referred to a decision of Government as contained in Annexure-F, at page 51, where in para 6 it has been observed as follows:-

“...the President, accepting the UPSC's advice has decided to drop the proceedings against Shri Diwakar Singh but after communicating 'Govt. Displeasure' to Shri Singh for his lapse/omission, as aforesaid. Accordingly, the departmental proceedings against Shri



Diwakar Singh are dropped and 'Govt. Displeasure' is hereby communicated to Shri Singh as per President's decision."

5. During the course of argument, the case of the applicant, who argued his case himself, was that the delay in completion of proceedings was entirely that of the respondents and that the punishment of displeasure communicated to him was against the advice of the UPSC. He should not, therefore, be penalised by denying him the payment of interest on DCRG amount, which was paid to him with an inordinate delay.

6. We have heard the applicant-in-Person and the learned counsel for the respondents. The learned counsel for the respondents argued at the admission stage itself that since circular of the Railways permits payment of interest within three months from the date of conclusion of the departmental proceedings, no interest is payable to the applicant for the alleged delay. The applicant, on the other hand, submitted that since the delay was caused entirely at the instance of the respondents after he retired on 1.3.1997 and also that the UPSC had recommended that the applicant Shri Diwakar Singh should be

A

exonerated of the charges, he should not be made to suffer loss on account of this delay.

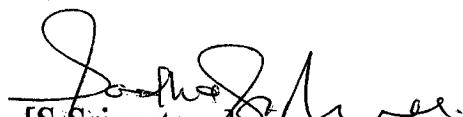
7. During the course of argument, the applicant referred to judgment of Apex Court as reported in AIR 1985 page 356, wherein it was held that the delay in payment of Gratuity commences from two months from the date of retirement.

8. On careful examination of the record and after hearing the parties, we are satisfied that this is a fit case which can be disposed of at the admission stage itself as the notice of the same has already been served on the respondents' counsel who has also been heard. Besides, communication of displeasure eight years after retirement cannot be deemed to be a punishment in a major penalty proceeding, which has been delayed entirely for no fault of the applicant. We are, therefore, satisfied that the Railway circular referred to by the respondents would not be applicable in this case and the applicant would be entitled to payment of interest for the period after expiry of two months from the date of payment was due till the date of actual payment. The respondents are, therefore, directed to pay interest to the applicant on the Gratuity amount at the

J A

rate of 10 per cent within three months from the date of receipt/production of copy of the order. If, however, the payment is not made within three months, the penal rate of interest at the rate of 18 per cent will be payable to the applicant.

9. In the event, speaking order passed by the respondents at Annexure-'L' at page 73 is quashed and set aside and the OA is allowed in terms of the observations made above. However, we are not inclined to award any costs to the applicant, as prayed for by him.



[S. Srivastava]  
Member[J]



[Mantreshwar Jha]  
Member[A]

cm