

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION NO. 72 /1996

Date of Decision: 16/4/97

K.H. Kishnani Petitioner/s

Shri S. Natarajan Advocate for the
Petitioner/s

V/s.

Union of India & 2 Ors. Respondent/s

Shri A.L. Kasturey Advocate for the
Respondent/s

CORAM:

Hon'ble Shri M.R. Kolhatkar, Member (A)

Hon'ble Shri

- (1) To be referred to the Reporter or not ?
- (2) Whether it needs to be circulated to other Benches of the Tribunal ?

abp.

M.R. Kolhatkar
(M.R. KOLHATKAR)
MEMBER (A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GULESTAN BLDG. NO. 6, PRESOT RD, 4TH FLR,

MUMBAI - 400 001.

ORIGINAL APPLICATION NO: 72/96.

DATED THIS 16TH DAY OF APRIL, 1997.

CORAM : Hon'ble Shri M.R. Kolhatkar, Member (A).

K.H.Kishnani,
Retd. Divisional Cashier (Pay),
Western Railway,
residing at
101, Ankur,
Opp. Bhavan's College,
Dadabhai Road, Andheri (N),
Bombay - 400 058.

... Applicant.

By Advocate Shri S.Natarajan.

v/s.

1. Union of India through
The General Manager,
Western Railway,
Churchgate, Bombay - 400 020.

2. The F.A. & C.A.O. (WST),
Western Railway,
Churchgate, Bombay - 400 020.

3. The Chief Cashier,
Western Railway,
Churchgate, Bombay - 400 020.

... Respondents.

By Advocate Shri A.L.Kasturey.

X O R D E R X

X Per Shri M. R. Kolhatkar, Member (A) X

In this OA, the applicant retired as a Divisional Cashier while working with respondent No. 2 and 3 on 31/10/93. His claim is for payment of Honorarium of Rs.26,768/- to which he becomes entitled in terms of Western Railway letter No. CR/E/1061/SP dated 29/12/93 read with letter dated 22/12/94 read with subsequent letter dated 6/11/95. The applicant has also claimed interest on the amount. It is stated that he made an application on 8/3/94, 29/3/95 and 22/6/94 but the first claim of Rs.5,000/- was paid on 26/2/96 and the balance claim of Rs.21,764/- was paid on 7/6/96.

2. According to the respondents, circular dated 6/11/95, liberalised the formalities of submitting the claim in as

much as it was mentioned in the last para of the circular that "Honorarium claims upto December, 93 will be not in the purview of the norms."

Respondents further contend that the claims of the applicant submitted earlier were not in accordance with the procedure and therefore they were required to be returned and remained pending examination and it was only by virtue of circular dated 6/11/95 which exempted claims upto December, 93 from purview of norms that it was possible for the respondents to settle the claim of the applicant and they sanctioned the amount within the purview of the local office in February, 96 i.e. shortly after issue of circular dated 6/11/95 and the claim which was within the purview of the Railway Board was settled on 7/6/96. According to respondents, therefore, there has been no delay in settling the claim if it is considered from the point of view of circular dated 6/11/95, when the claims of the applicant got exempted from the purview of various norms.

3. The Counsel for the applicant does not dispute that the claim of the applicant has been settled, but he presses the prayer for payment of interest. According to him, the applicant was all along forwarding his claims as per successive circulars and, therefore, the mere fact that subsequent circular exempted the claims prior to December, 93 from the purview of norms cannot be held against him and, therefore, he is entitled to interest on Rs. 21,968/- from March, 1994 and on Rs. 4,800/- from April, 95 till date of realisation.

4. Respondents have opposed the claim of interest. According to respondents, the claims initially submitted by applicant were not in order and were returned to him vide letters dated 20/5/94 and 18/5/94 and it was only after the Administration issued the circular dated 6/11/95 that the OA came to be filed in December, 95, interalia, for claiming interest. He also relies on the Supreme Court judgement in Union of India v/s. Dr. J. K. Goel reported at 1995(2) SC SLJ 69. In para-9 of which the Hon'ble Supreme Court has observed that

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"when there is no provision of law under which such interest can be granted., the facts of the case should be examined to ascertain whether there are special equities which would justify the grant of such interest and if there is no special equity, grant of interest would not be in order."

5. The counsel for applicant has contended that the circular dated 6/11/95 did not make any difference. There were certain norms laid down in circular dated 29/12/93 and they were liberalised by subsequent circular dated 6/11/95, and the intermediate circular dated 22/12/94 only made the Honorarium effective from 1/5/91 instead of 1/11/91 and, therefore, there has been a delay for which respondents should be held squarely responsible.

6. I am unable to accept the contention of the applicant. It is quite clear that prior to circular dated 6/11/95 even claims prior to December, 93 were required to be examined as per the norms whether modified or otherwise and since the claims submitted by the applicant were not in the requisite proforma, therefore they were required to be returned and it was only after the circular dated 6/11/95 was issued, that it was possible for the respondents to settle the claims of the applicant, even without insisting on details which were earlier required. It is seen that the first claim of applicant was settled in February, 96 i.e. within three to four months of the issue of the revised circular and the subsequent claim has been settled on 7/6/96 and this time was taken to process the matter through Railway Board which cannot also be considered to be undue delay. It is required to be kept in view that the Government machinery is required to be allowed some time to process the case according to the rules and instantaneous settlement of claims cannot be expected. Viewed from this point of view, there is no delay. There are also no special equities favouring the applicant. The claim of the applicant

for interest is not justified and the same is rejected.
Since the arrears of honorarium are already paid, nothing
survives in the OA which stands disposed of.

M.R.Kolhatkar

abp.

(M. R. KOLHATKAR)
MEMBER (A)