FORM NO. 21

(*See* rule 114)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ...BENCH

OA/TA/RA/CP/MA/PT OA 377 of 20-90

Har Swarup .....Applicant(S)

Versus

U.O.I. .....Respondent(S)

INDEX SHEET

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Certified that the file is complete in all respects.

B.C. file weeded and destroy

Signature of S.O.

Signature of Deal. Hand

13/6/12

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Registration No. 377 of 1989 (L)

23/11/90

APPLICANT(S) Shri Hari Swaroop

RESPONDENT(S) — vs — Union of India & others

Particulars to be examined	Endorsement as to result of examination
1. Is the application competent ?	yes
2. a) Is the application in the prescribed form ?	
b) Is the application in paper book form ?	yes
c) Have six complete sets of the application been filed ?	yes
3. a) Is the application in time ?	
b) If not, by how many days it is beyond time?	yes
c) Has sufficient case for not making the application in time, been filed?	yes
4. Has the document of authorisation/ Vakalatnama been filed ?	yes
5. Is the application accompanied by B.D./Postal Order for Rs.50/-	yes
6. Has the certified copy/copies of the order(s) against which the application is made been filed?	yes
7. a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	yes
b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?	yes
c) Are the documents referred to in (a) above neatly typed in double sapce ?	yes
8. Has the index of documents been filed and pageing done properly ?	yes
9. Have the chronological details of representation made and the out come of such representation been indicated in the application?	yes
10. Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal?	no

A2

Particulars to be Examined	Endorsement as to result of examination
11. Are the application/duplicate copy/spare copies signed ?	4 sets
12. Are extra copies of the application with Annexures filed ?	yes
a) Identical with the Original ?	
b) Defective ?	yes
c) Wanting in Annexures Nos._____pagesNos _____?	
13. Have the file size envelopes bearing full addresses of the respondents been filed ?	N.A.
14. Are the given address the registered address ?	yes
15. Do the names of the parties stated in the copies tally with those indicated in the application ?	yes
16. Are the translations certified to be ture or supported by an Affidavit affirming that they are true ?	N.A.
17. Are the facts of the case mentioned in item no. 6 of the application ?	Item No. 4
a) Concise ?	
b) Under distinct heads ?	
c) Numbered consectively ?	yes
d) Typed in double space on one side of the paper ?	yes
18. Have the particulars for interim order prayed for indicated with reasons ?	yes
19. Whether all the remedies have been exhausted.	yes
	NC

dinesh/

23.11.90
D.R.

Put up before the Hon. Bench, 23/11

on 27.11.90 for orders.

23/11
23.11.90

OA. 377/90 (L)

27-11-90 Hon Mr Justice K Madhava Reddy
Hon Mr. M.M. Singh, A.M.

Issue notice to the respondents to show cause why the petition be not admitted and why the relief sought may not be granted. List for admission on 22-1-91 when the case may be disposed of finally.

M M
AM

VC

Notice issued
6-12-90

22.1.91

No sitting. Adj to 19.2.91

19.2.91 -

No sitting. Adj to 3.4.91.

3.5.91 Hon Mr Justice U.C. Srivastava, VC
Hon Mr A.B. Gorthi, AM.

Shri Anil Srinivasan on behalf of Railway Administration prays three weeks' time for Reply. Allowed. No further time will be granted. List for orders on 25.7.91 when the case is likely to be fixed for hearing.

AM

OR

3.4.91
D.R.

Both the counsel for the parties are present today. Anil Srinivastava files power on behalf of the respondent. The case is listed on 5.5.91 for filing C.A.

No CA filed
MP 266/91 is also pending
SFH

14-5-92

To Advt. Mr. S. M. Rasool S.M.

Judgement pronounced today, both. as per Comm.

JM

(A5)

[illegible]

[illegible]

O.A. No. 377/90(L)

[illegible] Applicant

Versus

Union of India through
Secretary, Ministry of Railways
[illegible] others. Respondents.

Hon'ble Mr. [illegible], Judicial Member.

The applicant has approached this Tribunal under section 19 of the Administrative Tribunals Act, 1985 for direction to the respondents to pay the amount of interest on commutation of pension, gratuity, arrears of pension and leave encashment to the tune of Rs 13,904 as worked out in detail in para 4.14 of the application, and for direction to the respondents to disburse the leave encashment of Rs 15,890.00 together with interest at the rate of Rs 18% per annum from 1.4.89 to 31.10.90 to the tune of Rs 4,528 as worked out and detailed in para 4.15 of the application, and for further direction to the respondents to clear the claim of payment of Group D insurance scheme with interest from 1.4.89 till the date of payment.

2. Briefly, stated, the facts of this case, inter alia, are that the applicant was appointed as Booking Clerk

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in N.E. Railway w.e.f. effect from 1.3.1957 and after serving as Booking Clerk for 15 years, the applicant was promoted as Senior Booking Clerk and ~~and~~ in the year 1987 the applicant was promoted as Head Booking Clerk in the revised scale of Rs 1400-2300. The date of birth of the applicant is March, 31, 1931 and as such the applicant was to retire on 31.3.89(Afternoon) after attaining the age of superannuation as 58 years. Despite the information to the effect that the applicant will be retiring on 31.3.89, the applicant was allowed to continue to work as Head Booking Clerk till 9.5.89 and was retired only in the afternoon of 9.5.89 and the period from 1.4.89 to 9.5.89 was treated as re-employment period and excess payment of Rs 924.00 on account of service rendered from 1.4.89 to 9.5.89 was recovered from gratuity as indicated in the P.P.O. (Annexure A-7) Despite repeated requests after his retirement through his letter dated 20.8.89 and 12.1.90 to the D..... Lucknow and other letters to the authorities concerned as mentioned in para 4.18 of the application no payment was made even by way of provisional pension in respect of the retiral benefits of the applicant, ~~was made~~ hence the applicant approached this Tribunal for relief sought for as due to inordinate delay in making payments by the respondents, the applicant has suffered a lot.

3. The respondents, in their counter affidavit have resisted the claim of the applicant, inter alia, on the grounds that the department is not indicate delay in making payment of the retiral benefits to the applicant and whatever delay was, that was caused due to regularisation of the period which the applicant worked beyond the due period of his retirement i.e. from 1.4.89 to 9.5.89. It has further been contended that the applicant filed his pension papers on 10.5.89 which were received in the office on 12.5.89 and since the applicant worked from 1.4.89 after the age of his superannuation, therefore, his case was sent to C...(P) Work Pur for obtaining sanction of the competent authority for regularisation of that period and therefore, reasonable time was required for all these things. It has further been contended that due to clerical error, the applicant was allowed to work from 1.4.89 to 9.5.89 and the clerk concerned is being dealt with properly for his lapses. It has further been contended that as per rules only 7% interest for delay upto one year and 10% beyond one year delay after 3 months from the date of retirement of the employee concerned is payable. But in this instant case this does not apply as the applicant is himself responsible for delay. Thus, in view of the above circumstances, the plaintiff is not entitled for any interest and the application of the applicant is liable to be dismissed with costs.

4. In the Rejoinder filed it the applicant has reiterated almost all those facts as mentioned in the application. However, it has further been stated that the amount of leave encashment should have been paid to the applicant as early as possible but the amount of Rs 11,655 only was paid on 4.4.91 as amount of leave encashment was due for 7 months as stated in the original application and the amount paid to the tune of Rs 11,655 approximately represents the amount for five months only.

5. I have heard the learned counsel for the parties and have thoroughly gone through the records of the case.

6. The learned counsel for the applicant while drawing my attention to the pleadings of the parties, and the papers annexed thereto, the provisions of chapter 8 "Pension Scheme" (Railway Establishment Rules and Labour Laws by S.S. Mathur at page 461 to 478) and also to the Railway Board's letter No. E(G)84-P... 1-8 dated 18.6.84, has argued that the intention lurking behind the pension scheme as well as in the aforesaid Railway Board's letter is to provide immediate relief to the retiring employees and with this end in view the Department concerned shall make ~~expeditious~~ strenuous efforts to make expeditious payments of pension and other retiral benefits and has further

argued that the respondents are liable to pay penal interest at the rate of 18% for inordinate delay in paying the aforesaid retiralbenefits to the applicant and the penal rate of interest should be allowed against the respondents from 1.4.89 to the actual date of payment made by the respondents @ 18% per annum, as the applicant has been deemed to have retired in the afternoon of 31.3.89, ~~as the applicant has been deemed by the respondents to have retired on 31.3.89~~ though, in fact the applicant worked upto 9th May, 1989 and in support of his argument has placed reliance on the following rulings:-

1. 1985, SCC(L&S) at page 273 State of Kerala and others (Appellants) vs. M. Padmanabhan Nair (Respondents) wherein it has been emphasised:

"Labour and Services-Pension-Prompt payment of, is a Government's duty, failing which Government liable to pay penal interest to the pension or gratuity should be paid on the date of retirement or on the following day and pension should be paid at the expiry of the following month-Collection of requisite information and issuance of Last Pay Certificate and No Liability Certificate should be completed one week before the date of retirement-Treasury officer obliged to issue to every retiring Government servant Last Pay Certificate and in time or could be liable in case of any unexplained, unjustified and

culpable delay in issuing the same-Treasury Code, Rule 186- Gratuity."

2. (1988) 7, ATC page 49-50(Central Administrative Tribunal, New Delhi) "K.[illegible] Sharma,(Petitioner) vs. Union of India & others(Respondents) wherein it has been enunciated:

"Pension-Delay in payment of -Pension wrongfully reduced-Payment not made properly even after High Court order-delay held culpable-Interest allowed at 18 per cent p.a."

7. The learned counsel for the respondents while drawing our attention to the pleadings of the parties and the documents on the record argued that there was no wilful or any deliberate delay in finalizing the matter of the applicant and due to clerical mistake the applicant, who was virtually to retire on 31.3.89 was retired in the afternoon of 9.5.89 due to some wrong entry by the official concerned in the record; and he further argued that due to this mistake of the official concerned, the matter was referred to the competent authority for regularisation of the excess period; and has further argued that the pension papers of the applicant were received in the office of the respondents on 12.5.89 and as such the respondents should not be saddled with the responsibility of paying penal interest; and has further argued that the utmost

applicant shall be entitled to interest at the rate of 7% for delay upto one year and interest at 10% for delay beyond one year, delay being three months from the date of retirement.

8. This is significant to point out from the perusal of the plaint of the petitioner from scrutiny of the entire material on record it becomes obvious that the following categories of the retiral benefits were paid to the applicants by the respondents on the dates as indicated against each of them:—

		Date on which payment was made:
Amount of gratuity or amount of commutation of pension amounting to	Rs 13,306/	4.5.90
Amount of arrears of pension on D.A.	Rs 12,768/	13.7.90
Amount of T.A. transfer grant	Rs 1350/	12.6.90
Amount of leave encashment	Rs 11,655/	4.4.91
Amount of group insurance	Rs 1852/	20.5.91

From the perusal of the para 13 of the counter affidavit of the respondents and para 10 of the rejoinder affidavit of the applicant it becomes obvious that the applicant's 'Pension papers' were received in the office of respondents on 12.5.89 though the same should have been submitted by the

applicant must be on the date of his retirement and thus this being so, the respondents can not be held wholly responsible for delay in the process regarding payment of pension, gratuity and commutation of pension.

9. Thus, from the foregoing discussion and after scrutinizing the entire material on record and keeping in view the facts and circumstances of the case and all aspects of the matter and keeping in view the principles of law as enunciated in the above rulings, I find that the ends of justice would be met, if the respondents are directed to pay interest to the applicant on the aforesaid amounts of gratuity, commutation of pension, arrears of pension and D.A. and T.A. as detailed above for the period of one year at the rate of interest of 15% (fifteen percent) per annum, on the amount of leave encashment and on the amount of Group Insurance as detailed above for the period of two years at the rate of 15% (fifteen percent) per annum; and I order accordingly. The respondents are directed to pay the amounts of interest on the aforesaid amounts ~~and~~ at the aforesaid rate within the period of one month from the date of the receipt of the copy of this judgment.

10. The application of the applicant is allowed as above. No order as to costs.

14.5.92
Member Judicial.

Delivered on : 14.5.92

Transfer Grant

Jt.Tel/

AB

FORM I

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH,
LUCKNOW.

Har Swarup. ... Applicant.

Versus

Union of India & Others. ... Respondents.

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNAL ACT, 1985.

Title of the case : Claim of interest on retiral benefits & non-Payment of retiral benefits.

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Serial No.	Description of documents relied upon.	Page Nos.
1.	Application.	1 - 9
2.	Copy of letter dated 28.8.89 of the applicant. Annexure A-1.	10
3.	Copy of letter dated 19.9.89 of the applicant. Annexure A-2.	11
4.	Copy of letter dated 12.1.90 of the applicant. Annexure A-3.	12-13
5.	Copy of letter dated 16.4.90 of the applicant. Annexure A-4.	14-15
6.	Copy of Remittance Note dated 10.5.90 sending Cheque for Rs. 62,382.00. Annexure A-5.	16
7.	Copy of Remittance Note dated 14.6.90 sending Cheque for Rs. 1350.00. Annexure A-6.	17
8.	Copy of Pension Payment Order dated 19.5.90. Annexure A-7.	18-19
9.	Vakalatnama.	20

LUCKNOW: DATED:
November 22, 1990.

Harswarup
Signature of Applicant.

Through: R.S.Srivastava
(R.S.Srivastava)
Advocate,
4/553, Vikas Nagar, Kursi Road,
LUCKNOW.

Central Administrative Tribunal
Circuit Bench Lucknow
Date of Filing 23/11/90
Date of Receipt
Registrar(J) 23.11.90

FOR USE IN TRIBUNAL OFFICE.

Date of Filing:
or
Date of receipt by
Post:

Registration No.

Signature
For Registrar.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, CIRCUIT BENCH,
LUCKNOW.

Harswarup S/o late Shri Vijai Singh, aged about 60 years, retired Head Booking Clerk, Northern Eastern Railway, Lucknow, resident of Village Rajnagar, P.O.Mahoo, District Aligarh, at Present residing at Ram Bhawan, Arya Nagar, Naka Hindola, Lucknow. ... Applicant.

Versus

1. Union of India through the Secretary, Ministry of Railways (Railway Board) Government of India, New Delhi.
2. The General Manager, Northern Eastern Railway, Gorakhpur. ...
3. The Divisional Railway Manager, Northern Eastern Railway, Ashok Marg, Lucknow. ... Respondents.

Noted for 27.11.90
Rajsamtaw
Advocate

Details of Application.

1. Particulars of order against which the application is made:
   i. Remittance Note dated 10-5.90 sending therewith Cheque for Rs. 62382.00. Annexure-A-5.
   ii. Remittance note dated 14.6.90 sending therewith Cheque for Rs.1350.00 Annexure-A-6.
   iii. Pension Payment order dated 19.5.90. Ammexire:A-7.

filed today
23/11/90

2. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

Harswarup

3. Limitation:

The applicant further declares that the application is within the limitation Period Prescribed in Section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the case:

4.1: That the applicant was appointed as Booking Clerk in N.E.Railway w.e.f. 1.3.1957.

4.2: That after serving as Booking Clerk for fifteen years the applicant was Promoted as Senior Booking Clerk and in the year 1987 he was Promoted as Head Booking Clerk.

4.3: That the scale of the post of Head Booking Clerk w.e.f 1.1.1986 was revised as 1400-2300.

4.4: That the date of birth of the applicant was March 31, 1931.

4.5: That the applicant was to retire on 31.3.1989 A.N. after attaining the age of 58 years on superannuation.

4.6: That the applicant had informed the Administrative authorities that after attaining the age of superannuation he was to retire on 31.3.1989 A.N..

4.7: That no heed was Paid to the information given by the applicant & he was allowed to continue to work as Head Booking Clerk till 9.5.1989 and was retired only w.e.f. 9.5.1989, A.N..

4.8: That the Period from 1.4.89 to 9.5.89 was latter treated as re-employment Period and excess Payment of Rs. 924.00 on account of Service rendered from 1.4.89 to 9.5.89 was recovered from Gratuity as indicated in the P.P.O. (Annexure A-7).

4.9: That as will be seen from Pension Payment Order dated 19.5.1990 the date of retirement has been finally taken as 31.3.1989 and pensionary benefits viz. gratuity and Commutation of Pension and Pension were finalised on the basis of retirement dated 31.3.89 A.N..

Harbaarup

4.10: That detailed instructions for simplification of procedure for eliminating delay in payment of pension & D.C.R.G. have been issued in Railway Board, letter No.F(E)III 76P.N.1/3, dated 8.4.76. According to instruction the payment of superannuation pension should in all cases commence on the first of the month in which it is due. With this object in due heads of offices & other responsible for or connected with pension cases are required to observe the tune schedule laid down for the various processes leading to authorisation and payment of pension and gratuity. According to this schedule the office concerned will initiate the pension case two years before the date of retirement of the employee. At this stage the work will be essentially that of assembling the information necessary for working out the qualifying service and calculation of average emoluments. This process should be completed not later than 8 months in advance of the date of retirement. Thereafter the actual work of preparation of pension papers i.e. reckoning of qualifying service and the calculation of average emoluments should be taken up which should be completed within two months. The amount of admissible pension and gratuity should also be completed within this period. The pension papers should then be forwarded to the office responsible for issuing the pension payment order. The office will after scruitinising of the papers, issue the pension order (including the order for the payment of the D.C.R.G.) not later than one month's in advance of the retirement.

4.11: That with a view that the payment of pension in all cases commences on 1st of the month, the Railway Board in their letter No.E(G)84P.M.1-8, dated 18.6.84 (N.R.S.N.8546) had stressed the need of watching progress of pension cases, by means of monthly and quarterly statements at various stages. Detailed procedure for ensuring prompt payment of pension was also laid down in the said Railway Board's letter.

Harbans Singh

4.12: That the Railway Board have also issued orders that in case for any special reasons, it was not found possible to complete and forward the Pension papers to the office responsible for issuing P.P.O. within the Prescribed time schedule, steps shall be taken by the head of the office to authorise the payment of Provisional pension & gratuity by the first of the months in which it is due.

4.13: That though the applicant had filledup all requisite forms & had completed all formalities regarding Payment of pension, D.C.R.G., Group Insurance, Leave encashment, Transfer Grant etc. when sent by Respondent No.3, even then the applicant was deprived of all retirement benefits for more then a year.

4.14: That the Hon'ble Supreme Court in the case of State of Kerala Vs. M.Padmanathan Nair 1985 S.C.C.(L&S) 278 have held that pension & gratuity are no longer any bounty to be ~~distributed~~ distributed by the Government to its employees on their retirement but have become, under the decisions of the Court valuable rights & Property in their hands and any culpable delay in settlement & disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment. Following the ratio of above mentioned judgment the Hon'ble Central Administrative Tribunal, New Delhi in Case of K.L. Sharma Vs. Union of India & Others have allowed interest @ 18% per annum on delayed payment of pension. The applicant retired w.e.f. 31.3.89 A.N. and the pension became payable on 1st May, 1989 and other retiral benefits viz gratuity, Leave encashment Commutation of Pension Deposits in Group Insurance Scheme and Transfer T.A.Grant on 1.4.1989.

That it would be seen from the Pension Payment Order issued on 19.5.90 by the Mandal Lekhadhikari, N.E. Railway, Lucknow and Cheques issued subsequently that payments have been released on dates notified against each as below:

Harshwarp

Rs.28160.00	Amount of Gratuity -	Cheque issued on 4.5.90.
Rs.35146.00	Amount of Commutation of Pension.	" " " 4.5.90.
Rs.12768.00	Amount of arrears of Pension + D.A. from 1.4.89 to 30.6.90.	Amount credited in Pass Book on 13.8.90.
Rs. 1350.00	T.A.Transfer Grant.	Cheque issued on 12.6.90

Amounts of Leave encashment and Group Insurance Scheme which were also tobe Paid on 1.4.89 have netbeen released till filing the application.

That amount of interest which has become due for payment to the applicant is workedout below on claims of Gratuity, Commutation of Pension, arrears of Pension & Transfer T.A.Grant @ 18% Per annum

i. Amount of Gratuity and amount of Commutation of Payment (28160 + 35146) = Rs. 63306/-.

ii. Interest from 1.4.89 to 30.4.90

$$\frac{63306.00 \times 18 \times 13}{1200} = \text{Rs. } 12345.00$$

iii. On Pension, D.A. due from 1.4.89 to 30.6.90. = Rs. 1316.00

iv. On TransferT.A.Grant from 1.4.89 to 31.5.90. = 243.00

Total of Interest Rs. 13,904.00

4.15. That Railway employees who retired on or after 30.9.77 are entitled for Payment of cash e uivalent to leave salary of the Period of earned leave at credit on the date of superannuation. The leave salary Payable was to include Pay & D.A. admissible on such Pay. The applicant believes that he had seven months earned leave at his credit on 31.3.1989 A.N. (the date of superannuation). No payment of encashment of leave for 7 months has been made to the applicant till date of filing the application. The amount of interest calculated till October, 1990 comes to Rs. 4528.00 as under:

Pay Rs. 1760.00

D.A. Rs. 510.00

$$\text{Rs.}2270.00 \times 7 = \frac{15890.00 \times 18 \times 19}{1200} = \text{Rs.}4528.00$$

Interest calculated from 1.4.89 to 31.10.90.

The encashment of leave which was due on 1.4.89 could not be paid as yet due to inaction of Respondent No.3. The

Har Swarup

Respondent no.3 has thus made himself liable for payment of interest of Rs. 4528.00 as stated above.

4.16. That the applicant's deposits into Group Insurance Scheme together with interest thereon were also payable on 1.4.89 but the said claim of deposits of Group Insurance Scheme has not yet been settled & finalised by Respondent No.3.

4.17: That the cause of action arose in the month of May, 1990 and June, 1990 on different dates as indicated below when Cheques & P.P.O. were issued:

P.P.O. issued on	19.5.90
Cheque for Gratuity & Commutation of pension issued on	4.5.90.
Cheque for Transfer Grant issued on	12.6.90.

4.18. That the applicant after his retirement addressed a letter to the Divisional Railway Manager, Lucknow on 28.8.89 requesting for payment of all retiral benefits. A copy of the said letter dated 28.8.89 is being filed as Annexure No. A-1. On 19.9.89 the applicant wrote to the Divisional Railway Manager, Lucknow and emphasised the need of payment of provisional pension & gratuity but the provisional pension and provisional Gratuity was not paid to the applicant. On 12.1.90 againe the applicant sent a letter to Divisional Railway Manager, Lucknow stating therein that delay in finalising claims of applicant will result in liability of payment of interest. When no action was taken on letters dated 24.8.89, 19.9.89 and 12.1.90 the applicant was forced to write to Railway Minister by name on 16.4.90. Copies of letters dated 28.8.89, 19.9.89, 12.1.90 and 16.4.90 are being filed as Annexures A-1, Annexure-A-2, Annexure A-3 and Annexure A-4 respectively.

5. Grounds:

That aggrieved by non-settlement of retiral benefits claims by Respondent No.3 timely i.e. by 1.4.89 and making their payments in May, 1990 i.e. after inordinate delay (payments except Leave encashment due & claim of Group Insurance Scheme) the applicant has no other alternative except to invoke the jurisdiction of this Hon'ble Tribunal to enforce his legal and legitimate rights inter alia on the following grounds:-

Harswarup

1. Because the retiral benefits which were due on 1.4.89 were paid in the month of May, 1990.

2. Because the interest is Payable by Respondents as the delay in payment was caused by Respondent No.3.

3. Because the Hon'ble Supreme Court & Central Admn. Tribunals have allowed interest on delayed payments of retiral benefits.

4. Because the instructions issued by Railway Board were not complied with by Respondent No.3.

5. Because even Provisional pension and gratuity which should have been paid on 1.5.89 and 1.4.89 respectively were not paid.

6.00 Details of the Remedies exhausted:

1- That the applicant after his retirement addressed a letter to Divisional Railway Manager on 28.8.89 requesting for Payment of all retiral benefits. A copy of the said letter dated 28.8.89 is being filed as Annexure A-1.

2. That the applicant on 19;9.89 again sent a letter to the Divisional Railway Manager, N.E.Railway, Lucknow and had stated that applicant was entitled for Provisional pension and provisional gratuity but was not favoured with such benefits. A copy of letter dated 29.9.89 is being filed as Annexure A-2.

3. That on 12.1.90 the applicant again sent a letter to Divisional Railway Manager, N.E.Railway, Lucknow and claimed interest for delay being made in Finalising the claims of the applicant. A copy of the same was also enclosed to General Manager, N.E.Railway, Gorakhpur. A copy of letter dated 12.1.90 is being filed as Annexure No.A-3.

4. That when no response could be had for above these letters dated 28.8.89, 19.9.89 and 12.1.90, the applicant was forced to write to the Railway Minister by name on 16.4.90. A copy of letter dated 16.4.90 is being filed as Annexure No.A-4.

Harswarup

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7.00 Matters not Previously filed or pending with any other Court:

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any Court or any-other authority or any other bench or the Tribunal nor any such application, writ petition and suit is pending before any of them.

8.00 Reliefs sought:

The Hon'ble Tribunal may be pleased to grant the following relief/reliefs:

i. to direct the respondents to pay the amount of interest (on commutation of pension, Gratuity, arrears of pension & Transfer T.A.Grant) to the tune of Rs . 13904.00 as worked out in Para 4.14;

ii. to direct the respondents to disburse the leave encashment amount of Rs. 15,890.00 together with interest from 1.4.89 till date of payment @ 18% per annum, the interest from 1.4.89 to 31.10.90 comes to Rs. 4528.00 (Para-4.15);

iii. to direct the respondents to clear the claim of payment of Group Insurance Scheme with interest from 1.4.89 till date of Payment;

iv. to grant any other relief/reliefs as deemed fit in the circumstances of the case;

v. to allow the costs of the petition.

9.00 Interim order if any Prayed for:

The Hon'ble Tribunal may be pleased to direct the Respondent No.3 to release forthwith the Payment of leave encashment and Group Insurance deposits to avoid any further loss to the applicant.

10. The application is being submitted personally & it is tobe heard at Lucknow.

11. Particulars of Postal Order:

Postal order No: 706 616562463 for Rs 20 = each
607 845562 for Rs 10 .00

Dated: 22.11.90 for Rs.

Issued from Charbagh PO, Lucknow.

Harswarup

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12. List of enclosures:

As per Index and one Postal order as detailed in Para 11 & Vakalatnama.

VERIFICATION

I, Har Swarup, son of late Shri Vijai Singh, aged about 60 years, retired Head Booking Clerk, Northern Eastern Railway, Lucknow, resident of Ram Bhawan, Arya Nagar, Naka Hindola, Lucknow, do hereby verify that the contents of Paragraphs 1 to 12 except 4.14 and 5 are true to my personal knowledge and those of paragraphs 4.14 and 5 are true on the basis of legal advice and that I have not suppressed any material fact.

DATED: November 23, 1990.
Lucknow:

Harswarup
SIGNATURE OF THE APPLICANT.

R S Srivastava

Through: R.S.Srivastava,
Advocate,
4/553, Vikas Nagar,
Kursi Road, Lucknow.

In the Central Administrative Tribunal Lucknow Bench Lucknow

C.A. No. / 1990(L)

पुर्नोत्तर संख्या

Harsewasp Appellant

Vs

Ministry of Railways Respondents

पी० ओ० 66

आर० टी० आई० ए०/आर० 4 — 16 — A23

रेमीटेंस नोट

सं० ..... दिनांक .....

ए० बी० नं० ..... दिनांक .....

पी० एम० आर० नं० 344 दिनांक 7/5/90

Annexure A5

क्या में, ...

.....

Sd/- [illegible]

मु० ..... जिनका विवरण निम्नलिखित है, जिसके कारण विवरण सहित भेजा जा रहा है।

क्रम सं०	बिल संख्या	दिनांक	रु०	पै०
1				
2	J. & K.C.		6238	00
3				
4				
		योग ...		

रेमीटेन्स का विवरण :—

सं० ..... ड्राफ्ट संख्या ..... दिनांक .....

रु० ..... दिनांक .....

रु० .....

..... रुपये रु० .....

योग — .....

True Copy

[illegible] का पावती करके वापस भेजा जाय ..... द्वारा .....

[illegible] ..... पद ..... भेजे

Advocate

रीजनल डिस्ट्रीक्ट मास्टर पन्नलक

पावती रसीद

(भुगतान प्राप्त करने वाले को कार्यालय द्वारा वापस करने हेतु)

नं० 344 दिन० 7/5/90 भुगतान किया .....

..... का कार्यालय .....

रेमी० ..... रु० ..... द्वारा .....

.....

सं० .....

दिनांक .....

भुगतान लेने वाले का हस्ताक्षर

कार्यालय मुहर .....

Harsewasp

पी० एम० पी०

पूर्वोत्तर रेलवे

पी० एण्ड पी० 66

पी० एम० आर० नं० पी०/आर० 3

रेमीटेन्स नोट

दिनांक 13.1.6

ए० बी० नं० ..... दिनांक .....

पी० एम० आर० नं० 660 दिनांक 13.1.6

सेवा में,

मुख्यालय

मु० ख० ..... जिसका विवरण निम्नलिखित है जिसके कारण निम्नलिखित भेजा जा रहा है।

क्रम सं०	विवरण संख्या	दिनांक	रु०	पै०
1				
2	[illegible]		1350	00
3				
4		योग		

रेमीटेन्स का विवरण :—

सरकारी ड्राफ्ट संख्या ..... दिनांक .....

चेक नं० 503011/DIS538 दिनांक 12/6/90

डाक टिकट

नकद या करेन्सी रु० .....

योग — 1350/—

कृपया इस पत्र की पावती वापसी डाक द्वारा .....

कैशियर/पे-मास्टर/खजांची ..... रेलवे ..... मेसर्स

रीजनल डिस्ट्रिक्ट कैशियर/पे-मास्टर/पे-क्लर्क

पावती रसीद

(भुगतान प्राप्त करने वाले का कार्यालय द्वारा वापस करने हेतु)

पी० एम० आर० नं० 660 दिनांक 13/6 भुगतान जिला .....

प्राप्त किया ..... सेवा कार्यालय .....

दिनांक, मु० ख० ..... ख० खाते द्वारा .....

स्टेशन .....

दिनांक .....

भुगतान लेने वाले का हस्ताक्षर

कार्यालय मुहर .....

Harswarup

Union of India & Others - Respondents

NS/P A & GAG/82

पूर्वोत्तर रेलवे
North Eastern Railway

पेंशन का भुगतान आदेश P. P. O. Authority letter

पंजीकृत/पावती देय
(Not Acknowl. A/B)

कार्यालय
Office of the

दिनांकित Dated ..... 19..

सं० No .....

प्रेषक From The Director of Accounts (Postal) Lucknow 226 Lucknow

निदेशक लेखा (डाक) The Director of Accounts (Postal) .....

कोषाधिकारी The Treasury Officer .....

विषय—श्री/श्रीमती को पेंशन का भुगतान .....
Sub :—Disbursement of Pension to Shri/Smt.

मृतपूर्व B. ..... (विभाग/स्थान) (Deptt./Station) .....

पेंशन भुगतान आदेश संख्या P. P. O. No. ..... Dated .....

श्री ..... से प्राप्त पेंशन सम्बन्धी अभिलेख नीचे लिखे हैं आप के पास एतद्द्वारा अग्रसारित कर रहा हूँ।

I am to forward herewith pension documents mentioned below received from .....

..... उनके पत्र सं० .....

दिनांकित के साथ (*) 840/- with his Authority letter No. 23/- ..... के लिए ..... में पाँच सौ चालीस मात्र

dated ..... 840/- for payment of pension of Rs. ..... in words Rs. .....

तथा सहायता रु० 244/- 2293 Rs 804/- 840/-

..... and relief of Rs. ..... Total Rs. .....

शब्दों में 200/- 1700/-

पाँच सौ चालीस मात्र 01/04/89 से प्रभावी

in words Rs. ..... per month with effect from .....

उनके/उनकी मृत्यु पर्यन्त ..... तथा उसके उपरान्त ..... रु० ..... शब्दों में रु० .....

till he/she ..... and thereafter ..... in words Rs. .....

प्रति माह सहायता के साथ फिर उस समय ..... तक जो भी पुनर्विवाह या वयस्कता प्राप्त हो पहले हो

p. m. together with relief as then admissible ..... till he/she dies or remarries or attains majority whichever is earlier.

द्वारा 12457
Through Bank Account No.

टिप्पणी —(1) पेंशन भोगी की मृत्यु होने ..... पर

Note.—(1) In the event of death ..... Sant

नियमानुसार ..... 840/- ..... होंगे, होंगी
Ex ..... Family will be entitled ..... 2596 ..... पुनर्विवाह राशि
in words Rs. ..... and relief of Rs. ..... 450/- ..... पाँच सौ पचास मात्र
and thereafter Rs. .....

सहायता ..... तक जो भी पूर्व ..... तक
..... together with relief as admissible ..... or remarriage
attainment of majority on ..... whichever is earlier

*(II) (क) उनके पेंशन ..... नहीं ..... ।

*(II) .....

..... 6020/- ..... 103540/- ..... के भुगतान के लिए प्राधिकृत
..... ।

समय-समय पर स्वीकृत राहतें देय होंगी

Harswarup

True copy Attested
Advocate

A22

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH, LUCKNOW.

O.A. No. 377 /1990(L)

Har Swarup ... Applicant.

Versus

Union of India & Others. ... Respondents.

ANNEXURE No. A-1.

सेवा में,
मंडल रेल प्रबन्धक,
पूर्वोत्तर रेलवे,
लखनऊ ।

विषय :- सेवा निवृत्ति के उपरान्त देय वैधानिक देयकों के संबंध में ।

महोदय,

विनम्र निवेदन है कि मैं सरकारी सेवा पूर्ण करने के पश्चात् दिनांक 9 मई, 1989 को सेवा निवृत्त कर दिया गया हूं । आप सहमत होंगे कि सेवा निवृत्ति के उपरान्त सेवा निवृत्त कर्मचारी को उसके देय जैसे प्रोवीडेंट फण्ड, ग्रेच्युटी, पेंशन, अर्जित अवकाश नकदीकरण तथा बोनस की धनराशि एवं स्थानान्तरण यात्रा भत्ता तुरन्त दे दिया जाना चाहिए ताकि वह अपने परिवार की सुव्यवस्था कर उसकी जीविका बराबर चला सके ।

मुझे सेवा निवृत्ति के उपरान्त लगभग तीन मास व्यतीत हो गए हैं तथा मैं समस्त कार्यवाही अपने स्तर से पूर्ण कर चुका हूं परन्तु अभी तक मुझे जीविकोपार्जन हेतु अभी तक कुछ अदा नहीं किया गया है जब कि मेरे दो लड़के इस समय उच्च शिक्षा लखनऊ विश्वविद्यालय के अधीन पाए जाने के लिए अग्रसर हैं । यहां यह भी उल्लेखनीय है कि लखनऊ जैसे मंहगे शहर में अधिक दिनों तक सेवा निवृत्ति के उपरान्त रहना तथा परिवार का खर्च बिना किसी देय प्राप्त किए जी पाना मेरे जैसे अल्प वेतन भोगी कर्मचारी के लिए सम्भव नहीं है ।

अतः आपसे निवेदन है कि मुझे उपरोक्त धनराशि पहली तारीख तक दिलाने की कृपा करें ताकि मैं बच्चों की फीस आदि की व्यवस्था कर सकूं तथा बच्चों की जीविका चला सकूं । आप इस बात से भी सहमत होंगे कि विलम्ब जितने दिन तक पैसा मुझे अदा नहीं करेगा उतने दिन का ब्याज भी सरकार को मुझे अदा करना होगा । ऐसी परिस्थितियों में कृपया आप संबंधित अधिकारी/कर्मचारी को निर्देशित करने का कष्ट करें कि तुरन्त मेरी देय धनराशि मुझे अदा कर दें । इसके लिए मैं आपका आजीवन आभारी रहूंगा ।

सादर,

प्रार्थी

(ह० हरस्वरूप)
सेवा निवृत्त प्रधान वाणिज्य लिपिक
पूर्वोत्तर रेलवे, लखनऊ जंक्शन, लखनऊ ।
(राम भवन, आर्य नगर, नाका हिण्डोला,
लखनऊ ।)

दिनांक 28-8-89

(सत्य प्रतिलिपि) Harswarup

True copy
Attested
Ramantam
Advocate

A20

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH, LUCKNOW.

O.A. NO. 1990(L).

Har Swarup. ... Applicant.

Versus

Union of India & others. ... Respondents.

ANNEXURE NO. 2.

To

The Divisional Railway Manager,
N.E. Railway,
Ashok Marg, Lucknow.

Subject: Payment of advance T.A. and other service benefits after retirement.

...

Respected Sir,

I have retired w.e.f. 5.5.1989 in the after noon. I had given an application on 28.4.1989 and on the basis of that application you have been pleased to issue me a Cheque for Rs. [illegible] in lieu of Provident Fund, which has been received by me on [illegible].

I had drawn in my previous application regarding payment of other benefits also such as Gratuity, Commutation of pension, Leave Encashment money, Payment of G.I.S. and advance T.A. (Luggage Packing Charges). But so far no payment has been made regarding such benefits. I may respectfully mention here that due to non-fulfilment of the pending other retirement benefits, the applicant is unable to shift with his family to his native place. You are fully agreed that a retiring Government Servant is entitled to Provisional Pension and Provisional Gratuity after the immediate date of retirement but against the fundamental rules, the applicant has not been paid any amount regarding pension gratuity etc.

It is therefore, respectfully prayed that you may kindly intervene in the matter so that the applicant may be able to settle his family at his native place peacefully in these hard days.

With kind regards,

Yours faithfully,

Sd/- (Har Swarup)
(RESPONDENT)
Retd. Head B.C.
N.E. Rly, Lucknow Jn. Lucknow
r/o Ram Bhawan, Arya Nagar,
Naka Hindola, Lucknow.

Dated: 15.1.1990.

True Copy
Advocate
Representing
Advocate

(APPLICANT)

Harswarup

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH, LUCKN

O.A.No. 1990(L).

Har Sharup. ... Applicant.

Versus

Union of India & Others. ... Respondents.

ANNEXURE No.A-3.

Registered.

From

Har Sharup,
Retired Head Clerk,
Northern Eastern Railway,
Lucknow Junction,
Residing at "Ram Bhawan",
Arya Nagar, Naka Hindola,
LUCKNOW.

To,

The Divisional Railway Manager,
Northern Eastern Railway,
Lucknow,
LUCKNOW.

Sub: Non-payment of retirement benefits & encashment of leave and Advance Etc.

...

R/Sir,

I have to invite references to my letters dated 28.8.1989 and 16.9.1989 respectively on the above mentioned subject and to state as under:

1. That I have retired in the afternoon of 9th May, 1989 from the post of Head Booking Clerk, Northern Eastern Railw Lucknow Junction, Lucknow.

2. That I had submitted my Pension papers in time in the office to the concerned authority.

3. That except the payment of Provident fund nothing has so far been paid to me, although a number of verbal and written requests were made by me which fallen to deaf ears.

4. That all the retirement service benefits were to be paid to me as per the rules within one month from the date of my retirement from Service, i.e. 10th June, 1989.

5. That since I am maintaining my family and due to rise in the living cost the market prices, it is now becoming impossible to make both ends meet and non-payment of my retirement benefits by the department is creating great and acute financial stringency in my whole family.

6. That now more than seven months have elapsed since the date of my retirement and as per the orders of Railway Board/Authorities the prompt action towards payment of retirement benefits ought to have been taken, latest by

True copy
Abdul Rashid
Advocate

Harbadarup

10th June, 1989 in my case, but no action appears to have been taken on my several requests in person and in writing.

7. That through this letter, I request your honour to release all my pending retirement benefits alongwith leave encashment payable to me and transfer T.... (admissible for retired employees for transportation of luggage etc. to my home town) alongwith interest at the current market rate within one month from the receipt of this letter.

8. That in case my aforesaid retirement benefits are not released within the time specified, I shall have no other alternative except to approach the proper forum for redressal of my grievance and the entire liability thereof shall be on the part of the department.

That, Sir, I request that my retirement benefits including leave encashment and advance T.... may kindly be released to me on priority basis enabling me to shift my family and transport the luggage to my home town at Aligarh, for which I shall ever grateful to you.

Sd/- (H.R SHARMA)
Retired Head O.S.
N.E.R., LUCKNOW.

Dated: Jan. 1?, 1990.

True copy
Attested
R S Sundram
Advocate

Copy to the General Manager, Northern Eastern Railway, Gorakhpur for immediate necessary action with a request to enquire and issue instructions to the concerned authority for expediting the matter.

Sd/- (H.R SHARMA)
Retired Head O.S.

(Tej Pal)
Harsewarap

A31

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH, LUCKNOW
O.A.NO. /1990(T)

Har Swarup . ...Applicant.

Versus

Union of India & Others. ... Respondents.

ANNEXURE NO.-4.

From

Harswarup,
Retired Head C.L.
Northern Western Railway,
Lucknow Junction,
Residing at 'Ram Bhawan',
Arya Nagar, Naka Hindola,
Lucknow.

To

Hon'ble Sri Raj Bahadur,
Railway Minister,
Union of India,
New Delhi.

Subject: For removing the financial hardships which has been caused by the Officials - Assistants of W.M.Office, N.W.Rly, Lucknow by not giving the relevant benefits to the applicant inspite of the written directions of the higher Officers.

...

Respected Sir,

Under evaluating all the alternative opportunities, the applicant is now inviting your kind attention on the above subject. The facts of the matter are as under:-

1. That the applicant had been retired from service on 1.5.89 from the post of Head Booking Clerk, Lucknow Junction N.W.Rly, Lucknow and thereafter he had submitted his pension papers in time to the concerned authority.

2. That thereafter recently the payment of Provident fund has been provided and for rest dues was told by the concerned officers that he will be given payment very soon.

3. That thereafter the petitioner had given letters dated 28.8.1989, 19.5.1989 and 12.1.1990 but so far no heed has been paid.

4. That the following payments are due but due to non-completion of illegal demands of the officials concerned, the payment has been withheld by not preparing the bills etc.

1; Income Tax Charges,
2. Govt. Insurance Amount.
3. Amount of I.L.F..
4. Pension w.e.f. 1.5.89 and
5. the month's Pay for which the applicant had applied for leave,
6. Gratuity; and
7. Commutation of pension amount.

Harswarup

5. That in the 1st representation the applicant had requested that the payment be made immediately so that he may arrange his family and to go to his Home Place and in the last he had prayed that the payment be made within 15 days otherwise he is entitled for the interest on the amount from the due date.

6. That the concerned authority of the applicant after hearing the applicant directed in writing to the Head Clerk to make payment immediately but the officer bearers are waiting for 'bakshish' while as the applicant is for 'Bread' for his family.

7. That due to negligence of the official concerned the applicant has lost interest on the due amount which must be given to him after the next date of his retirement. In such circumstances it will be expedient to direct the office of D.R.M., Lucknow, N.E.Railway to pay to the petitioner entire amount with interest @ 18% per annum from the due date.

Sir, it is, therefore, hoped that your honour may graciously be pleased to direct the office of D.R.M., N.E.Railway, Lucknow to pay the entire amount as mentioned in paragraph 4 of this letter with interest @ 18% per annum from the due date within a further period of 15 days from the date of receipt of this letter, otherwise the applicant will get full pay for the said period from the pocket of the defaulting official/officer.

Yours faithfully,

Lucknow
April 16, 1990.

sd/- ([illegible])
Retired Head B.C.
N.E.R., Lucknow.

Copy forwarded for the Divisional Railway Manager, N.E.Railway, Ashok Marg, Lucknow, in reference to the applicant's letter referred to above.

sd/- (Har Swarup)
Retired Head B.C.

(True Copy)

Har Swarup

True copy
Attested
R S Srivastava
Advocate

[illegible]

[illegible] Alphand

रेमीटेंस नोट

V/s

[illegible] Respondents

ए० बी० नं० ..... दिनांक .....

पी० एम० आर० नं० 354 दिनांक 11.5.90

Annexure A5

प्रेषक,

[illegible]

[illegible]

मु० ७० ..... जिसका विवरण निम्नलिखित है, जिसके कारण विवरण सहित भेजा जा रहा है।

क्रम सं०	विल संख्या	दिनांक	रु०	पै०
1	D. & R.G.		6238	00
2				
3				
4				
		योग ...		

रेमीटेंस का विवरण :—

[illegible] ड्राफ्ट संख्या ..... दिनांक .....

[illegible] दिनांक .....

[illegible] रु० .....

योग — .....

[illegible] बैंक द्वारा .....

[illegible] ..... मेजे

रजिस्ट्रार
[illegible] वरिष्ठ पोस्टमास्टर, पेन्शनक

पावती रसीद

(भुगतान प्राप्त करने वाले को कार्यालय द्वारा वापस करने हेतु)

नं० 354 दिनांक 11.5.90 भुगतान किया .....

[illegible] रु० खाते द्वारा .....

[illegible]

[illegible]

[illegible]

भुगतान लेने वाले का हस्ताक्षर

कार्यालय मुहर .....

Harswarup

पी० एस० पी०

पूर्वोत्तर रेलवे

पी० एण्ड पी० 66

आर० एस० पी०/आर० 3

रेमीटेंस नोट

सं० ..... दिनांक ...1416...

ए० बी० सं० ..... दिनांक .....

पी० एम० आर० सं० ....660.... दिनांक .....13.16.

सेवा में, ...

.....

.....

भु० स० ..... जिसका विवरण निम्नलिखित है, जिसके कारण विवरण संलग्न भेजा जा रहा है।

क्र० सं०	विवरण संख्या	दिनांक	रु०	पै०
1				
2	[illegible]		1350	00
3				
4				
		योग ...		

रेमीटेन्स का विवरण :—

सरकारी प्राप्ति संख्या ..... दिनांक .....

चेक नं० 503611/D15,538 दिनांक 12/6/90

डाक टिकट

नकद या करेन्सी रु० .....

योग — 1350/—

कृपया इस पत्र का पावती रसीद वापसी डाक द्वारा .....

कैशियर/पे-मास्टर/खजांची ..... रेलवे ..... मेसर्स

रीजनल डिस्ट्रिक्ट कैशियर/पे-मास्टर/पे-क्लर्क

पावती रसीद

(भुगतान प्राप्त करने वाले का कार्यालय द्वारा वापस करने हेतु)

पी० एम० आर० नं० ....660.... दिनांक — 13/6 .... भुगतान जिला .....

प्राप्त किया ..... सेवा कार्यालय .....

रेलवे, भु० स० ..... रु० जाते द्वारा .....

.....

स्टेशन .....

दिनांक .....

भुगतान लेने वाले का हस्ताक्षर

कार्यालय मुहर .....

Harswarup

In the Central Administrative Tribunal Lucknow Bench Lucknow
CA No. 1990(L)
Hon Dhanraj — Applicant
Union of India & others — Respondents

18 Annexure A-1135

NS/R A & SAO/82

पूर्वोत्तर रेलवे
North Eastern Railway

पेंशन का भुगतान आदेश P. P. O. Authority Letter

पंजीकृत पावती देय
कार्यालय
Office of the

दिनांकित Dated

नं० No. 165

प्रेषक From ..... गोरखपुर

निदेशक लेखा (डाक) The Director of Accounts (Postal) .....

कोषाधिकारी The Treasury Officer .....

विषय—श्री/श्रीमती को पेंशन का भुगतान .....
Sub.—Disbursement of Pension to Sri/Smt.

भूतपूर्व Ex ..... (विभाग/स्टेशन) (Deptt./Station) .....

पेंशन भुगतान आदेश संख्या P. P. O. No. ..... 165 दिनांकित Dated .....

श्री ..... से प्राप्त पेंशन सम्बन्धी कागज़ात जो निम्नांकित हैं आप के पास एतद्द्वारा अग्रसारित कर रहा हूँ।
I am to forward herewith pension documents mentioned below received from .....

..... उनके प्राधिकार पत्र सं० .....

दिनांकित के साथ(+) 840/- with his Authority letter No.
dated ..... 280/- for payment of pension Rs. ..... in words Rs. .....
तथा माहात्म्य के 840/-
..... and relief Rs. ..... Total Rs. .....
शब्दों में रुपये ..... 01/04/89 से प्रभावी
in words Rs. ..... per month with effect from .....
उनके/उनकी मृत्यु पर्यन्त ..... तथा उसके उपरान्त ..... शब्दों में रुपये .....
till he sue ..... and thereafter ..... in words Rs. .....
प्रति माह माहात्म्य सहित उस समय ..... तक दी जाने वाली ..... जो पहले हो
p. m. together with relief as then admissible ..... on the death or remarriage whichever is earlier.
द्वारा 12457
Through ..... Bank Account No.

टिप्पणी :—(1) पेंशन भोगी की मृत्यु होने पर श्री/श्रीमती .....
Note.—(1) In the event of death of pensioner Sri/Smt.

भूतपूर्व ..... परिवार, परिवार पेंशन दर रुपये ..... 840/- ..... होगे/होगी
Ex ..... Family will be entitled to family pension 8396
शब्दों में रुपये ..... तथा अनुदेय राशि
in words Rs. ..... together with relief as admissible up to .....
..... तथा इसके बाद ..... 450/- .....
and thereafter ..... Rs. ..... in words Rs. .....
माहात्म्य सहित अनुदेय राशि की मृत्यु पर्यन्त तथा पुनर्विवाह ..... तक जो भी पहले हो देय होगी।
..... together with relief as admissible up to the date of death or remarriage whichever is earlier.
attainment of majority on .....
*(II) (क) उनका पेंशन का कोई अंश समर्पित नहीं हुआ है
*(II) ..... his pension has been commuted

..... 20/- का कुल 1035146/- का भुगतान मेरे द्वारा स्वयं कार्यालय से किया गया।
समय-समय पर स्वीकृत राहत देय होगी

Harswarup

True Copy
Attested
Advocate

A36

True copy
Attested
Learned
Advocate

NS/CCS
№ 64

VAKALATNAMA

A37

Before / In the Court of Central Administrative Tribunal Bench Lucknow

OA No. 377 of 1990

Har Swaroop

Versus

Union of India and others

I/~~We~~ K. P. Singh Divisional Railway Manager N.E. Railway Lucknow

do hereby appoint and authorise Shri Anil Srivastava

Railway Advocate Lucknow to appear, act apply and prosecute the above described Writ/Civil Revision/Case/Suit/Applicaion/Appeal on my/our behalf, to file and take back documents, to accept processes of the Court, to deposit moneys and generally to represent myself/ourselves in the above proceeding and to do all things incidental to such appearing, acting, applying, pleading and prosecuting for myself/ourselves.

I/We hereby agree to ratify all acts done by the aforesaid Shri Anil Srivastava Railway Advocate, Lucknow in pursuance of this authority.

IN WITNESS WHERE OF these presents are duly executed by me/us this.....

F.T.

.....day of.....198..

3/4/91

Accepted
Anil Srivastava
Adv
3/4/91

(K. P. Singh)

NER—84850400—80(—4 7 84

NS/CCS

VAKALATNAMA

Before / in the Court of: Central Administrative Tribunal Bench Lucknow
OA No. 377/90

Plaintiff / Defendant: Har Swaroop — Claiment / Appellant

Versus

Defendant / Plaintiff: Union of India and others — Petitioner / Respondent

The President of India do hereby appoint and authorise Shri Anil Srivastava Railway Advocate Lucknow to appear, act, apply, plead in and prosecute the above described suit/appeal/proceeding on behalf of the Union of India to file and take back documents, to accept processes of the Court, to appoint and instruet Counsel, Advocate or Pleader, to withdraw and deposit moneys and generally to represent the Union of India in the above described suit/appeal/proceedings and to do all things incidental to such appearing, acting, applying, Pleading and prosecuting for the Union of India SUBJECT NEVERTHELESS to the condition that unless express authority in that behalf has previously been obtained from the appropriate Officer of the Government of India, the said Counsel/Advocate/pleader or any Counsel, Advocate or Pleader appointed by him shall not withdraw or withdraw from or abandon wholly or partly the suit/appeal/claim/defence/proceeding against all or any defendants/respondents/appellant/plaintiff/opposite parties or enter into any agreement, settlement, or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted or refer all or any matter or matters arising or in dispute therein to arbitration PROVIDED THAT in exceptional circumstances when there is not sufficient time to consult such appropriate Officer of the Government of India and an omission to settle or compromise would be definitely prejudicial to the interest of the Government of India and said Pleader/Advocate or Counsel may enter into any agreement, settlement or compromise whereby the suit/appeal/proceeding is/are wholly or partly adjusted and in every such case the said Counsel/Advocate/Pleader shall record and communicate forthwith to the said officer the special reasons for entering into the agreement, settlement or compromise.

The President hereby agree to ratify all acts done by the aforesaid Shri Anil Srivastava Rly. Advocate Lucknow in pursuance of this authority.

IN WITNESS WHEREOF these presents are duly executed for and on behalf of the President of India this the ..... day of ..... 198 .

Dated 19

(K. L. Pandey) 9/1/91
Designation of the Executive Officer,

Accepted
Anil Srivastava
Adv.
3/4/91

NER—84850400—8000—

Before The Central Administrative Tribunal

Lucknow Bench,

Civil Misc. Petition No. 304 Of 1992

In Re:

O. A. No. 377 of 1990 (L)

Harswaroop ..... Applicant,

Versus

Union of India & others ..... Respondents,

Ex For 11-5-92

APPLICATION FOR CONDONATION OF DELAY IN FILING COUNTER REPLY.

That delay in filing counter reply is not intentional or deliberate but due to administrative and bonafide reasons, which deserves to be condoned.

PRAYER

THEREFORE, it is most respectfully prayed that in the interest of justice, delay in filing counter reply may kindly be condoned and counter reply may be taken on record.

Filed today
13/4/92

Lucknow:

Dated: 13.4.92

A. Srivastava
(ANIL SRIVASTAVA)
Advocate

Counsel for the Respondents

Before the Central Administrative Tribunal

Lucknow Bench,

O. A. No. 377 of 1990 (L)

Harswaroop ..... Applicant.

Versus

Union of India & others ..... Respondents,

Counter Reply on behalf of all the Respondent

I, S. M. N. Islam working as Senior Divisional Personnel Officer in the office of Divisional Railway Manager, Northern Eastern Railway, Lucknow do hereby solemnly affirm and state as under:-

1. That the official above named is working in the office of respondents and as such he is fully conversant with the facts and circumstances of the case, He has been authorised on behalf of all the respondents to file present reply.

2. That the contents of paras 1 to 3 of the Original Application do not call for any reply.

That the reply of para 4 of the Original Application is given as under:-

Contd. 2,

Sri Zahir
[illegible]
[illegible]
[illegible]
N. E. Railway, Lucknow.

3. That the contents of para 4.1 of the Original Application are admitted , It is further added that he was appointed in grade Rs. 60-130.

4. That the contents of para 4.2 of the Original Application are admitted, It is further stated the he was promoted as Senior Booking clerk in grade Rs.330-560 on 1-8-77 and in grade Rs.425 - 640 from 1-1-84.

5. That the contents of paras 4.3 to 4.5 of Original Application are admitted.

6. That the contents of para 4.6 of the Original Application are false and as such denied. It is stated that applicant never informed the Railway Administration about his age of superannuation is 31-3-1989.

7. That the contents of para 4.7 of the Original Application are false and as such denied . It is stated that due to clerical error of clerk, date of superannuation of the applicant was wrongly shown 31-7-89 instead of 31-3-89 in the list circulated to Senior subordinates. It is relevant to pointout that for such error, concern clerk has been rounded up and a chargesheet for major penality has been issued to him.

Sri Wle

Contd.3,

8. That the contents of para 4.8 of the Original Application are admitted . It is also stated that P.P.O. shows that Rs 924 has been recovered from his D.C.R.G. due to the excess payment for the period 1-4-1989 to 9-5-1989.

9. That in reply to para 4.9 of the Original Application it is stated that as date of superannuation of applicant was 31-3-89 but he continued to work beyond it irregularly therefore his case had to be referred to G.M.(P) Gorakhpur for regularisation of the period of his irregular retention in service . Thus pensionary benefits were to be given on the basis of the exact date of his superannuation ie 31-3-89.

10. That in reply to para 4.10 of Original Application it is stated that procedure narrated in it follows in normal case of retirement but applicant's case does not come in normal case as he irregularly remain in the service till 10.5.89 , instead of 31-3-89.

As a consequence excess period of applicant case was sent to G.M. (P), Gorakhpur for regularisation of the excess period . It is relevant to point out here that the pension of D.C.R.G. papers were putup for senction to the competent authority after receipt

Conted.3 4,

Sri Z Ula
Sr. Divisional Commercial Officer
N. E. Railway, Lucknow

of his personal case and service book from Traffic Cadre and sent to D.A.O/ LJN vide the office letter No. E/IV/H S /H B C/P N/ 89 dated 5.11 89. Therefore to deal with all official formalities a considerable time is required in abnormal cases

11. That in reply to para 4.11 of Original Application it is stated that applicant's case was not a normal case as already mention in the preceeding paragraphs.

12. That the contents of para 4.12 of Original Application are not admitted. It is further stated that provisional pension is sanetioned only in those cases where D A R action for major penalty or any Vigilance case is pending against retiring employee.

13. That in reply to para 4 .13 of Original Application it is stated that applicant filed his pension papers on 10-5-1989 which were received in the office On 12-5-1989 Since applicant worked from 1-4-1989 after the age of superannuation, therefore his case was send to G.M.(P), Gorakhpur for obtaining sanction of the competent authority for regularisation of that period. Therefore a reasonable time was required to do all these, things.

C ...

14. That in reply to para 4.14 of Original Application it is stated that applicant worked upto 10-5-1989 , after the age of superannuation, as such complication regarding approval of excess period from 1-4-89 to 10-5-89 from competent authority arose and considerable time lapsed in it, Also due to clerical error, for which concerned clerk has been issued major memmorandum , date of birth of applicant was shown 3.7.31 instead of 3.3.31 , in the retirement list. As per rules 7% interest for delay upto one year and 10% for beyond one year delay after 3 months from the date of retirement is payable but here this does not apply. It is relevant to point out that applicant is a literate person who neither opposed extra working nor informed the fact of the case to Railway Administration. He has already been paid Gratuity, commutation and arrears of pension and T.A by cheque , on 4-5-90 & 13-7-90 and the applicant himself is responsible for delay in aforesaid payments as such no interest is payable to him.

15. That the contents of para 4.15 of Original Application are not admitted as alleged, It is submitted that if applicant could have informed Railway authorities regarding his exact date of retirement . He would have received his settlement dues in time as per procedure laid for normal cases. Therefore his claim for interest is unjustified in aforesaid circumstances.

Sr. Divisional Engineer

Conted.6,

16. That in reply to contents of para 4.16 of Original Application it is stated that amount of Group Insurances Scheme of Rs 1852=00 has been passed and issued by cheque no. 010352/D 51756 dated 20-5-1991 in his favour.

17. That the contents of para 4.17 of Original Application do not call for any reply.

18. That the contents of para 4.18 of Original Application are denied. It is further submitted that in terms of para 316(1), Manual of Railway Pension Rules 1950 which is reproduced here:-

" Where any departmental or judicial proceeding is instituted under para 315 or where a departmental proceeding is continued .....against a Railway servant who has retired or attaining the age of compulsory retirement or otherwise he shall be paid during the period commencing from the date of retirement to the date on which, upon conclusion of such proceeding, final orders passed, a provisional pension not exceeding the maximum pension which would have been admissible on the basis of his qualifying service up to the date of retirement.... ..... but no gratuity or death cum . retirement gratuity shall be paid to him until the conclusion

Contd.7,

of such proceeding and the issue of final orders there on.

19. That in reply to para 5 of Original Application it is stated that grounds taken are false, vague , misconceived, irrelevant inconsistant and not applicable to instant case of the applicant.

20. That the contents of para 6 & 7 of Original Application do not call for any comments.

21. That in reply to para 8 of Original Application it is stated that relief claimed is devoid of any merit and as such present application is liable to be dismissed against the applicant and in favour of the answering respondents with cost.

Lucknow:

Dated. 10 · 4 · 1992,

Sr. Divisional Personnel Officer.
N. E. Railway, Lucknow

VERIFICATION

I, the above named afficial do hereby varify that the contents of para 1 of the counter reply true to my personal knowledge and those of paras 2 to 21 of the counter reply are bases on legal advice and records.

Lucknow:

Dated: 10 · 4 · 1992,

Sr. Divisional Personnel Officer.
N. E. Railway, Lucknow

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH, LUCKNOW.

O.A.No. 377/1992(L)
M.P. NO- 395/92

Har Swarup. Applicant.

Versus

Union of India & Others. Respondents.

REJOINDER STATEMENT IN REPLY TO COUNTER STATEMENT FILED ON BEHALF OF THE RESPONDENTS.

Fixed for FH 11.5.92

The applicant, named above, most respectfully states as under:-

1. That the applicant has read and understood the contents of counter reply filed on behalf of Respondents and is well acquainted with the facts and circumstances of the case and replies given hereinafter.

2. That the contents of paragraphs 1,2,3,4 and 5 of counter reply need no comments.

3. That in reply to para 6 of the counter reply, it is stated that the applicant had informed the Administrative authorities regarding his date of retirement only verbally and hence documentary proof cannot be given. It is submitted that even if it is taken for granted that ~~xxxxxxxxxxx~~ ~~xxxxxx~~ the applicant did not inform the Railway Authoritie regarding his date of retirement, the Respondents cannot escope the responsibility of retiring the applicant on due date because they are in posession of all the personal records of applicant including date of birth etc. and under rules they were required to retire the applicant on due date after attaining the age of superannuation.

File today

4. That the contents of para 7 of the counter statemen are not admitted as stated. It is, however, submitted that the Respondents were required to take advance action as detailed in paras 10,11 and 12 of Original application and in case they would have adhered to the instructions regarding preperation of pension documents the mistake or the clerical error could have been easily detected much earlier.

5. That the contents of para 8 of the counter reply need no comments.

6. That in reply to contents of para 9 of the written reply, it is stated that when recovery of the amount for dut period from 1.4.1989 to 9.5.1989 has been made and the date

Har Swarup

of retirement has been taken as 31.3.1989 and retiral benefits paid a year after, how the Respondents can escape the liability of payment of intereston delayed payments of retiral benefits.

7. That the contents ofparagraph 10 are misleading and misconceived and hence denied. According to the instructions of Railway Board the Respondents were required to initiate action for preperation of pension documents two years before the date of superannuation of the employee. Since the Respondents did not initiate action as laid down in rules, the applicant continued in service till 9.5.1989. There is no provision in rules for dealing with normal and abnormal cases seperately. The rules are clear on the issue and if Respondents would not have been negligent & would have complied with instructions of Railway Board in to to, the contingency of filing this application would not have arisen.

8. That the reply given in paragraph 7 above also covers ~~xxxxxx~~ the reply to paragraph 11 of the counter statement.

9. That the contents of para 12 of counter statement are wholly incorrect and hence not admitted. It is however submitted that provisional pension is allowed in each and every case inclusive of cases where DAR action for major penality or any vigilance case is pending against retiring employee.

10. That the contents ofpara 13 of counter reply are not convincing. When the pension papers were received by Respondents on 12.5.1989, they should not have delayed payments of retiral benefits beyond a year and it was their dire responsibility to have issued orders for expeditions payment of retiral benefits.

11. That the contents of para 14 of the counter reply are not admitted as stated. The date of retirement of applicant has been finally taken as 31.3.1989. The pension papers were submitted in May, 1989. The payments for benefits of retirement were released after a year for no fault of the applicant and hence according to settle law declared by the Hon'ble Supreme Court of India, the applicant is entiled for interest at market rate for

Harinarayan

delayed payments of retirement benefits. The applicant had earlier informed the authorities verbally but no ~~xxx~~ ts been was paid by Respondents even the Respondents have deducted the amount of duty period from 1.4.1989 to 9.5.1989 which would be legally payable but the applicant has forfeited that claim & not included in reliefs claimed.

12. That the contents of para 15 of the counter statement are not admitted. The amount of leave encashment should have been paid to the applicant as early as possible but the amount of Rs. 11,655/- only was paid on 4.4.1991. The amount of leave encashment was due for 7 months as stated in ~~Exx~~. Original application. The amount paid to ts the tuneof Rs. 11,655/- approximately represents the amount for 5 months only. The amount of leave encashment for two months has been withheld and had not yet been paid. The Respondents were required to pay the whole amount for 7 months leave due at the time of retirement but they have arbitrarily deducted the amount of two months leave encashment which is wholly unjustified.

13. That the contents of para 16 of the written reply are admitted to the extent that amount of Rs. 1852/- has been paid to the applicant on 20.5.1991 but it is submitted that the payment has been made after two years of the date of retirement and the applicant shall be entitled to interest for delayed payment of this claim as well.

14. That the contents of para 17 of the written reply need no comments.

15. That in reply to the contents of paragraph 18 of the written reply, it is stated that the replies given are not relevant. Para 316(1) of Manual of Pension Rules is not applicable in the case of the applicant.

16. That in reply to contents of paragraph 19 of the written reply, it is stated that all the grounds are justified and tenable in the eye of law.

17. That the contents of para 20 need no comments.

18. That in reply to contents of para 21 it is stated that all reliefs claimed are genuine and are based on settled law declared by the Hon'ble Supreme Court of India

Harsaarup