

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO: 707/94

15-11-94

Date of Decision:

D.M. Muley

.. Applicant

Shri P.G. Zare

.. Advocate for
Applicant

G.M.

-versus-

C.B.I.Y. & Anr.

.. Respondent(s)

Shri S.C. Dhawan

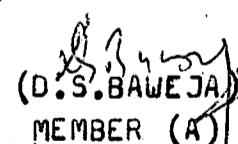
.. Advocate for
Respondent(s)

CORAM:

The Hon'ble Shri D.S. Bawej, Member (A)

The Hon'ble Shri S.L. Jain, Member (J)

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


(D.S.BAWEJ)
MEMBER (A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

QA. NO. 707/94

Dated this the 15th day of November 1999.

CORAM : Hon'ble Shri D.S.Baweja, Member (A)

Hon'ble Shri S.L.Jain, Member (J)

Divakar Moreshwar Muley,
R/o Plot No.17, Karve Nagar,
Housing Society, Navasahyadri,
Pune-411 052.

...Applicant

By Advocate Shri P.G.Zare

V/S.

1. Union of India through
General Manager,
Central Railway,
Bombay V.T.,Bombay.
2. Sr.Divisional Engineer
(South-East), Central
Railway, Bombay V.T.
Bombay.

...Respondents

By Advocate Shri S.C.Dhawan

O R D E R

{Per : Shri D.S.Baweja, Member (A)}

The applicant retired from service as Chief Inspector of Works, Pune, Central Railway on 30.6.1991. Just before retirement he was issued a chargesheet dated 20.6.1991 for minor penalty. The applicant submitted defence against the same on the date of retirement on 30.6.1991. In view of this chargesheet, payment of settlement dues was withheld. The applicant represented against this on 8.8.1991 followed by reminder dated 27.8.1991. The applicant sent a notice dated 20.10.1991 through his Advocate. In reply to this notice, the applicant was replied

as per letter dated 18.11.1991 that papers for payment of settlement dues have been sent to Accounts Department withholding Rs.16,101/- being the amount of loss caused by the applicant. Subsequently, the applicant got the payment of commutation value of pension and DCRG amounting to Rs.1008581/- with reference to letter dated 12.12.1991 making recovery of Rs.16100/-. Thus the payment of settlement due of Rs.20600/- which was due on 1.7.1991 was delayed by about 6 months. Earlier while releasing the ^{and} payment of PF, salary etc. a deduction of Rs.1063/-was made as outstanding of scooter advance inspite of the fact that full amount had been recovered till May,1983. The applicant represented against recovery of Rs.16100/- on 23.7.1992 followed by another representation dated 26.8.1992. The applicant sent another notice from his Advocate dated 24.5.1993. Thereafter, as per letter dated 2.10.1993 from Divisional Railway Manager, it was advised that matter is under consideration. On not getting any redressal of his grievance, the applicant has filed the present OA. on 30.5.1994. The applicant has sought the following reliefs:-
(a) Declare that recoveries made as per Exhibit-III and XI are illegal and direct respondent to refund the recoveries made with interest of 18% per annum till the date of payment.
(b) Allow interest of 18% per annum on the other payments which were delayed by about 6 months.

2. The respondents in the written statement submit that the applicant was issued chargesheet before retirement and therefore the payment of settlement dues was withheld as per the extant rules till the finalisation of the disciplinary proceedings. Delay was therefore not on account of administrative lapse and the applicant is not entitled for payment of any interest. Further, the claim of interest for the payment made in 1991 is barred by limitation in respect of the present OA. filed in May, 1994. As regards the recovery of Rs.16101/- the same has been also refunded by order dated 8.7.1996 after the disciplinary proceedings were concluded and therefore the applicant is not entitled for payment of interest for the delay. The recovery of Rs.1063/- against scooter advance was done from the applicant as per the office record and the same has been validly made.

3. The applicant has filed rejoinder reply contesting the submissions of the respondents and reiterating his grounds.

4. The respondents have filed further written statement in reply to the rejoinder reply of the applicant. The respondents submit that the disciplinary proceedings concluded with the issue of "displeasure of Government", ^{though (a)} as it was concluded that the applicant had acted with negligence but it was decided not to proceed further for imposing a cut in pensionary benefits.

5. We have heard the arguments of Shri P.G.Zare and Shri S.C.Dhawan, learned counsel for the applicant and the respondents respectively.

6. It is admitted ^{fact} that the applicant was issued minor penalty chargesheet before retirement on 30.6.1991 and some of his settlement dues were held up. Payment of Gratuity and Commutation value of pension was paid as ^{per} annexure XI dated 12.12.1991 and with further payment made on 4.2.1992. The applicant has sought the relief of payment of interest for delay in making these payments. The respondents have submitted that these payments were withheld as per the extant rules due to disciplinary proceedings pending against the applicant. The applicant has not controverted this and has not come out as to under what extant rules these payment could not be withheld. In the absence of any such submission, we are of the view that the withholding of these payments was not due to administrative lapse and therefore no interest is payable to the applicant for the delay. Further, we agree with the stand of the respondents that this claim is hit by limitation due to filing of the present OA. on 30.3.1994 against the cause of action which arose with Exhibit XI in December, 1991.

7. The second relief is with regard to payment of Rs.16101/- which was recovered as per Annexure XI of the OA. and interest thereon for delay in payment till the date of payment. This amount has been paid by the respondents on 8.7.1996 during the

(1)

pendency of the OA. and the same is confirmed by the applicant in the rejoinder reply. The only claim now is for the payment of interest due to delay in making this payment which was as per the applicant due just after retirement. The respondents have submitted that an amount of Rs.16101/- was withheld from the Gratuity for recovery of the loss caused by the applicant to the Railways. The respondents contend that this action was as per the extant rules. We note from the letter dated 18.11.1991 at Annexure VIII that applicant was informed of keeping back of Rs.16101/- from the DCRG pending finalisation of the disciplinary action. Accordingly, the payment of the dues as per letter dated 12.12.1991 has been made deducting Rs.16101/-. Thus the cause of action arose on 12.12.1991. If it is the plea of the applicant that the deduction of this amount from the settlement dues was not permissible as per rules and he felt aggrieved by the same, then the applicant should have agitated the matter at the appropriate time. The applicant has filed the present OA. on 30.3.1994 and therefore the claim for interest on delay in payment is barred by limitation. The applicant has neither explained the delay nor filed any application ^{for} ~~or~~ condoning of delay. We therefore decline to allow this prayer.

8. The third relief is with regard to release of the payment of Rs.1063/- being scooter advance recovery as per Annexure-III. The applicant's plea is that full recovery of the scooter advance had been made in 1983 itself. The respondents on the other hand

Q

have submitted that this amount was outstanding in the record and in the reply to rejoinder reply, the respondents have given the break up of principal amount and the interest accrued. This has not been controverted by the applicant. Accept making a general statement, the applicant has not furnished any details to show that full recovery of the scooter advance had been made. We have therefore no reason not to accept the respondents' version. Thus, we are unable to find any merit in this claim also. Apart from lack of merits in this claim, it is also barred by limitation as the cause of action arose with the letter dated 27.6.1991 and when the applicant received the payment as deliberated earlier in para 7 above.

8. In the result of the above, the OA. lacks merit as well as is barred by limitation and is accordingly dismissed. No order as to costs.


(S.L.JAIN)

MEMBER (J)


(D.S.BAWEJA)

MEMBER (A)

mrj.