

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

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Original Application No: 918/94

Transfar Application No: ---

DATE OF DECISION: 14-9-95

Amarnath Sambhariya Shinde

Petitioner

Mr.P.G.Zare

Advocate for the Petitioners

Versus

U.C.I. & Ors.

Respondent

Mr.Subodh Joshi

Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Shri

1. To be referred to the Reporter or not ? X
2. Whether it needs to be circulated to other Benches of the Tribunal ? X

M.R. Kolhatkar

(M.R. KOLHATKAR)
M(A)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.918/94

Amarnath Sambhariya Shinde .. Applicant

-versus-

Union of India & anr. .. Respondents

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

Appearances:

1. Mr.F.G.Zare,
Counsel for the
Applicant.
2. Mr.Subodh Joshi
counsel for the
respondents.

ORAL JUDGMENT: Date: 14-9-1995
(Per M.R.Kolhatkar, Member(A))

In this case the applicant who is a railway employee was removed from service on and from 27-11-91. In appeal, this order of removal was modified to that of compulsory retirement on 17-6-1992. Accordingly order for payment of retirement dues to the applicant was issued by the Railways on 30-4-1993 vide page 14 of the O.A. and the net amount payable to the applicant was shown as Rs.47,005/- which did not include withheld amount of Rs.3,000/- for future debits. It appears that payment was actually made to the applicant of this net amount on 9-10-93 and the balance withheld for future deduction viz. Rs.3,000/- was also paid on 30-10-93. No interest has been paid to the applicant for delay in payment of the pensionary dues and the main prayer of the applicant is to arrange the payment of interest to the applicant. The applicant relies on the judgment in O.A.691/93 B.L.Aggarwal vs. U.C.I. decided by Single Bench

of this Tribunal on 19-11-1993. It was a case of voluntary retirement and there was delay in payment of retirement dues. The Tribunal directed to pay the balance of the retirement benefits to the applicant within a period of four weeks from the receipt of a copy order with 18% interest till the date of payment.

2. Learned counsel for the respondents does not dispute that ~~in terms of~~ Railway Board dated 15-4-91 instructions/at Annexure-1 to the written statement, the case of the applicant is governed by provisions under the heading "On Retirement other than on Superannuation" which states that if the payment of gratuity is delayed beyond six months from the date of retirement, interest should be paid for the period of delay beyond six months from the date of retirement. The question, therefore, is to decide the date from which the payment of interest would be due. According to the counsel for the respondents this date should be counted from 17-6-1992. Counsel for the applicant, however, points out that initial punishment, that of removal from service, took effect on 27-11-91 and it got modified to that of compulsory retirement on 17-6-92. He has not got salary also for the period from 27-11-91 to 17-6-92. We have no doubt in our mind that in such a situation, the appellate order merges with the original order imposing penalty and takes effect from 27-11-91. Therefore, the applicant is ^{deemed} to have retired from service w.e.f. 27-11-91. By applying Railway Board instruction dt. 15-4-91, therefore, it is clear that the applicant is entitled to payment of interest for delay beyond six months from 27-11-91 i.e. to say, from 27-5-92. The actual payment, as noted above has been

made on 9-10-93.

3. We are of the view that the applicant is entitled to payment of interest for this period from 27-11-91 to 9-10-93. The payment of interest, here, is not by operation of rules but in terms of discretionary power of the competent court.

We, therefore, direct the respondents to pay interest @ 12% p.a. This interest should be paid for period as calculated above within two months from the date of receipt of this order. If any interest payment is earlier made respondents are at liberty to adjust the same against the interest payable vide this order.

4. There will be no order as to costs.

M.R. Kolhatkar

(M.R. KOLHATKAR)
Member(A)

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