

CENTRAL ADMINISTRATIVE TRIBUNALBOMBAY BENCHO.A.No. 551/95Date of Decision 29-3-1996M.N.Nair

Petitioner

Mr.K.B.Talreja

Advocate for the Petitioner.

Versus

U.O.I. & Ors.

Respondent

Mr.S.C.Dhavan

Advocate for the Respondents.

Coram:

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

The Hon'ble Mr.

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

*M.R.Kolhatkar*


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 (M.R.KOLHATKAR)  
 Member(A)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
MUMBAI

O.A.551/95

Pronounced this the 29th day of March 1996

CORAM: HON'BLE SHRI MR.KOLHATKAR, MEMBER(A)

M.N.Nair,  
'Ganesh Niwas'  
BB Pune-Link Road,  
Katemanivali,  
Kalyan (East)

(By advocate Shri K.B.Talreja)

.. Applicant

-versus-

1. Union of India  
through  
The General Manager,  
Central Railway,  
Bombay V.T.  
Bombay - 400 001.
2. The Divisional Railway Manager,  
Central Railway,  
Bombay V.T.,  
Bombay-400 001.
3. The Sr.Divisional  
Electrical Engineer,  
Central Railway,  
Bombay V.T.,  
Bombay.

(By counsel Shri S.C.Dhavan)

.. Respondents

- O R D E R -

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

The applicant was appointed in the Railways as Casual labour in the year 1956, became permanent in the year 1959 in a Diesel Mechanic Group 'C' post, and worked as Electrical Foreman in the Grade of Rs.2000-3200(RPS) from 1-1-1984. The applicant was superannuated on 31-12-1994. Shortly before superannuation, the applicant was served with a chargesheet dt. 29-12-1994 and, therefore, he has not been paid his settlement dues till this date.

*Ma* The applicant refers to the Pension Rules ~~which~~

which envisage ~~initiation~~ and preparation of pension disbursement papers <sup>in advance</sup> and states that these have been violated in his case because till this date he has not been paid any pensionary benefits. He also relies on D.S.Nakara's case which holds that pension is a right vested in a Govt. servant and any delay in disbursement thereof make the Govt. employee <sup>entitled</sup> to penal interest. He has therefore <sup>for</sup> prayed the relief of settlement of pensionary dues, i.e. P.F., SC to PF/DCRG/Encashment of leave salary/commutation value of pension/pension etc. along with 24% interest p.a.

2. The respondents have opposed the O.A. It is contended that in the face of the charge memorandum dt. 29-12-1994, the applicant is not entitled to payment of pensionary benefits excepting payment of provisional pension. Since the departmental enquiry was instituted against the applicant before the date of his retirement, in view of the provisions of Rule 9(3) read with Rule 10 of the Railway Services(Pension)Rules,1993 the applicant is not entitled to payment of any pensionary benefits except provisional pension as provided by Rule 96 of the said Rule. In the face of Rule 10(1)(c) of the said rules the applicant is also not entitled to ~~payment~~ of DCRG. So far as the commutation of pension is concerned in view of the provisions of Rule-5 of Railway Services(Commutation of Pension)Rules 1993 the same cannot be permitted. Similarly ~~the same cannot be permitted~~

in terms of Railway Board's order (No.F(E)III/84.LEI/2 dt. 29-12-83 the action to withhold the payment of the amount of leave encashment has been taken. It is also ~~contended~~ by the respondents that necessary action to effect the payment of ~~amounts contributed~~ <sup>Provident</sup> ~~to the~~ fund by the applicant in accordance with the Rules and Law is in progress. Similarly the orders sanctioning provisional pension to the applicant during pendency of the departmental proceedings are also under issue and the amount of arrears of pension from 1-1-93 will be paid to the applicant shortly.

3. In his rejoinder the applicant states that he is entitled to interest on his accumulated contribution to the PF, he is also entitled to interest on provisional pension in view of the delay in payment and he is also entitled to payment of dues under Group Insurance Scheme.

4. I have perused the rules referred by the Railways and the circular dt.29-12-1983. The contention of the railways regarding the applicant not being entitled at this stage <sup>to</sup> (a) final pension, (b) DCRG, (c) commutation of pension and (d) leave <sup>initiated prior to superannuation is</sup> encashment, when enquiry ~~not~~ completed and when the applicant is liable to refund to the railway administration an amount of Rs.4 lakhs on account of subsistence allowance which was claimed by the applicant on the strength of a false non employment certificate is in accordance with the rules. However, on the railways' own admission the applicant is entitled to

PF dues(his own contribution) and to provisional pension. Nothing has been said by the railways regarding group insurance dues and I hold that the applicant is also entitled to the same. I, therefore, consider that the applicant is entitled to payment of these amounts that havenot been paid so far and also interest on the amount @ 12% for any delay of more than three months from the date on which the amount became due. As the applicant superannuated on 31-12-1994 these amounts ought to have been paid to him by 1-4-1995. Therefore the applicant is entitled to interest @ 12% on the specified amounts from 1-4-95 till the date of payment. So far as monthly pension is concerned the applicant is also entitled to interest on the same for any delay beyond six months viz. from 1-7-1995. The O.A. is therefore dismissed except to the limited declaration and directions in above terms. The payment of three fold dues referred to above and interest thereon should be effected within three months of the communication of this order. There will be no order as to costs.

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*M.R. Kolhatkar*  
(M.R. KOLHATKAR)  
Member(A)