

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 372/97

Date of Decision: 19.2.98

Shri Amrichand Bajai

Applicant.

Shri D.V. Gangal.

Advocate for
Applicant.

Versus

Union of India and others.

Respondent(s)

Shri V.G. Rege.

Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G. Vaidyanatha, Vice Chairman

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?

R.G. Vaidyanatha
(R.G. Vaidyanatha)
Vice Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH 'GULESTAN' BUILDING NO:6
PREScot ROAD, MUMBAI : 1

Original Application No. 372/97

Thursday the 19th day of February 1998.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.

Amirchand Bajaj
Residing at
House No.6, Block No.13
Govind Nagar,
Kanpur.

... Applicant.

By Advocate Shri D.V. Gangal.

V/s.

Union of India through
The General Manager
Central Railway,
Mumbai.

The Divisional Manager,
Central Railway,
Mumbai.

The General Manager,
Northern Railway,
Barcle House,
New Delhi.

The Divisional Railway Manager,
Northern Railway,
Allahabad.

The Regional Labour Commissioner
(Central) Wakefield House,
Sprott Road, Ballard Estate
Mumbai.

... Respondents.

By Advocate Shri V.G. Rege.

O R D E R (ORAL)

(Per) Shri Justice R.G. Vaidyanatha, Vice Chairman

This is an application filed by the
applicant for directing the respondents to pay a
sum of Rs. 81,240/- from respondent No. 1 to 4.

Respondent No.1 to 4 have filed their reply opposing
the application. I have heard counsel for both sides.

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2. The applicant was working as Railway servant since 1962. During the Railway Strike in 1974 the applicant did not participated. Therefore the applicant became eligible for one advance increment and cash award as per the order of the Railway Administration. The applicant has retired in 1996. Since the award was not given to the applicant, he agitated the matter before the Labour Court. The Labour Court passed the order on 17/21.2.93 allowing the application stating that the applicant is entitled to get the monetary benefit of one advance increment as per the notification of the Railway Administration. Pursuant to the order, the matter was moved before the Regional Labour Commissioner who issued Recovery Certificate on 10.5.90 to the Collector of Bombay to collect Rs. 81,240/- from Central Railway for being paid to the applicant. But the Railway Administration ~~who~~ paid the amount ^{under} on protest and wrote a letter dated 7-8-90 to the Regional Labour Commissioner stating that the applicant is entitled to get an amount of Rs. 1114.30 and after deducting an amount of Rs. 300/- as cash award ~~net~~ amount payable is only Rs. 814.30. The applicant again moved to the Labour Court, Kanpur, for execution of the order of the Labour Commissioner in LCA 121/91. The Labour Court, Kanpur held that the application is not maintainable for want of jurisdiction, by the order dated 5.8.96.

Thereafter the applicant has approached this Tribunal by filing the present application on 11.4.97 praying for a direction to the respondents to pay an amount of Rs. 81,840/- with interest at 18% per annum.

[Signature]

3. The respondents have filed reply opposing the application. It is stated that the application is not maintainable in this Tribunal and the application should be proceeded under the provisions of Industrial Dispute Act. Then the respondents have ~~disputed~~ moved for correctness of the amount claimed by the applicant.

4. As far as the maintainability of the application is concerned, If the present application is treated as one for execution of the order of the Labour Court, Labour Commissioner, strictly speaking the present application may not be maintainable before this Tribunal. The learned counsel for the applicant contended that since the applicant is a Railway Servant and is entitled to receive the amount from the Railway Administration and the amount is not paid then the present application is maintainable in this Tribunal. The learned counsel for the respondents cannot have any dispute that this Tribunal has jurisdiction regarding service dispute between the Railway servant and Railway administration. Since the ~~applicant~~ ^{exempt} applicant is not now pressing any calculation of the Labour Court or Labour Commissioness, he only want whatever amount is due to him as per the notification of the Railway Administration for grant of award and advance increment then this Tribunal will have the jurisdiction to consider the same.

5. Although there is a serious dispute between the parties regarding the amount involved, the Railway Administration in its letter dated 7.8.90 clearly states that the applicant is entitled to

only an amount of Rs. 1114.30 and after deducting the cash award of Rs. 300/- the net amount due to the applicant is Rs. 814.30. The applicant has not produced any material to show that the amount due to him is Rs. 81,840/-. Hence I came to the conclusion that the amount due to the applicant is only Rs. 814.30.

6. The learned counsel for the applicant strongly pressed for interest at 18% per annum from 1.1.74 till today. The learned counsel for the respondents contended that the applicant is not entitled to any interest. Though he opposed for grant of interest, alternatively he submitted that if any interest is to be given it should not exceed 6%.

7. There are many instances where the Tribunal has granted interest for delay in payment of salary etc. The Railway Administration has conceded that cash award and advance increment comes to an amount of Rs. 814.30 and the amount was not paid from 1974. But the Labour Court order came to be passed only on 21.2.83 directing the Railway Administration to make the payment. In that order there is no reference for grant of any interest. Therefore the applicant cannot claim interest prior to 21.2.83.

 As per the direction of the Labour Commissioner the respondents have paid the amount by cheque to the Collector on 28.6.90. Therefore the responsibility of the respondents came to an end as soon as the respondents have ^{issued} submitted the cheque. I therefore feel that the applicant is

entitled to interest from 21.2.83 till 28.6.90.

Since the respondents have given the cheque under my protest that are not liable to pay any interest after 28.6.90. It may be that the applicant did not get the benefit of that payment because there is serious dispute between the parties about the actual amount due to the applicant. Further the applicant himself approached the Kanpur Labour Court by filing an application for execution of the amount in 1991 which came to be rejected in 1996 for want of jurisdiction. A few months later the present O.A. is filed. The respondents are not liable to make any payment towards interest and once they have issued the cheque for Rs. 81,840/- and the matter was before the Labour Court at Kanpur till August 96. and few months later present application is filed. Therefore, I hold that no interest is payable after 28.6.90 till the date of filing the O.A.

8. We do not know as to what has happened to the cheque given by the respondents to the Collector; whether the amount has been invested in Fixed Deposit and earned the interest. Then the applicant will be entitled to interest on the amount due to him i.e. Rs. 814.30 from 28.6.90 or from the date it has earned interest till the applicant received the amount.

9. Now the question remains is of rate of interest. I hereby hold that the interest is payable to the applicant at the rate of 9% is just and reasonable to the amount of Rs. 814.30 for the purpose of calculation of interest the amount is rounded upto Rs. 814/- only.

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10. In the result the application is partly allowed. The applicant is entitled to get Rs. 814/- from Respondent No. 1 to 4 with interest at 9% from 21.2.83 to 28.6.90. The respondents are given three months time from today to make the payment. It is open to the respondents to take the amount deposited alongwith the earned interest if any from Labour Court, Labour Commissioner or Collector. The respondents shall give whatever interest earned on the amount of Rs. 814/- from 28.6.90 or thereafter if the amount was deposited in the Fixed deposit under the order of the Labour Commissioner, Labour Court or Collector to the applicant. In the circumstances of the case there will be no order as to costs.

Copy of the order be given to the parties immediately.

R. G. Vaidyanatha
(R.G. Vaidyanatha)
Vice Chairman

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