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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

J A I P U R.

O.A. No. 1033/92

Date of decision: 8.3.94

R.K. KHANNA

: Applicant.

VERSUS

UNION OF INDIA & ORS : Respondents.

Mr. P.D. Khanna : Counsel for the applicant.

Mr. V.D. Bhargava : Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice D.L. Mehta, Vice-Chairman

PER HON'BLE MR. JUSTICE D.L. MEHTA, VICE-CHAIRMAN:

The applicant was employee of B.B. & C.I. Railway.

The date of birth of the applicant is 15.7.1915. The applicant <sup>was</sup> ~~was~~ retired at the age of 58 years. Being aggrieved, he filed a suit in the court of learned Munsif, Ajmer which was decreed on 2.3.1976. The Court declared that the applicant was employee of the Railways, <sup>He</sup> can attain the age of superannuation only at the age of 60 ~~and~~ he was entitled to serve upto 31.7.75. Being aggrieved with the decision of learned Munsif, present non-applicants filed an appeal which also dismissed. They preferred to file the second appeal before the Rajasthan High Court which was also dismissed on 7.8.85. During this period of about 9 years, i.e. from 1976 to 1985, the respondents have not applied for the grant of stay before any Court, i.e. First Appellate Court and Second Appellate Court and no stay was granted in favour of the present Defendants. The applicant submitted that he was entitled for the pension in accordance with para 6 of the Ministry of Finance, Department of Expenditure Office Memorandum dated 22.10.83. The second grievance of the present applicant is that he should be awarded interest on the difference of the amount of pension.

2. Mr. Bhargava submits that the applicant should have filed the suit. His further submission is that the revised pension has been calculated though it has not been calculated according to para 6 of the OM, referred to by the applicant.

A specific query was made to Mr. Bhargava on this paragraph that why this OM should not be applied in the case of the present applicant. Mr. Bhargava could not satisfy the Court on this point and I am of the opinion that para 6 of the OM, referred to above, is applicable in the case of the present applicant and his pension should be fixed according to this para 6 of the OM and according to the table given therein.

3. The respondents should issue a revised pension order within a period of three months from today.

4. The second question is about delayed payment of the pension. Once a decree has been passed in 1976 against the present non-applicants then it was the duty of the non-applicants to comply the decree of the Court. Mere filing of an appeal does not give any right in favour of any person unless he moves the Appellate Court for the grant of the stay and the stay order is issued in his favour. In the instant case, no stay petition seems to have been filed and in any case, no stay order was granted. Thus, it is a case of delayed payment and the applicant is entitled to interest at the rate of 12% per annum on the difference of the amount of pension which is to be fixed in accordance with para 6 of the OM, referred to above.

5. As far as the question of payment of interest on gratuity is concerned, the applicant shall be entitled for interest on the difference of amount i.e. Rs. 3675/- paid on 23.8.86. The same principle is applied in the instant case which has been applied in the matter of pension. Mr. Bhargava submits that the payment of Rs. 7200/- was released on 12.9.80 and the remaining payment of Rs. 3675/- was released on 23.8.86. This itself goes to show that the respondents wanted to take the law into their own hands. The payment of Rs. 7200/- on 12.9.80 was not only delayed payment but abnormally delayed payment. A person has retired and he succeeded in getting the decree also in his favour even then the respondents have failed to make the payment [redacted] which the applicant

was entitled to get according to the version given by the defendants in their own written statement. The case of the defendants is that the applicant was entitled to Rs. 7200/- because he was to retire at the age of 58 years. Even this payment has been made after more than 5 years of his retirement. So the applicant is also entitled to get interest on this amount of Rs. 7200/- at the rate of 12% p.a. after 6 months of the retirement, i.e. he will get the interest on this amount from 1.2.76 till the date of the payment, i.e. 12.9.80. As far as the second part of the gratuity, i.e. Rs. 3675/- is concerned, the applicant shall also be entitled to get the interest from the date of the decree, i.e. 2.3.76 till the payment was made in 1986. All the benefits should be calculated and paid within a period of 3 months from today.

6. The O.A. is disposed of accordingly, with no order as to costs.



D.L. MEHTA  
VICE-CHAIRMAN