

(24)

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 344/89
T.A.No.

Date of Decision : 29.8.99

M.Sanjeeva Rao

Petitioner.

Shri V.Venkata Ramana

Advocate for the
petitioner (s)

Versus

General Manager, S.E.Railway, Garden Reach, Respondent.
Calcutta-43.

Shri N.R.Devraj,

Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. J.NARASIMHA MURTHY : MEMBER (J)

THE HON'BLE MR. R.BALASUBRAMANIAN : MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice Chairman on columns 1, 2, 4
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

NO


(JNM)
M(J)


(RBS)
M(A)

(26)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.344/89.

Dt. of Order: 29.8.99.

M.Sanjeeva Rao

...Applicant

Vs.

1. General Manager, South Eastern Railway,
Garden Reach, Calcutta - 43.
2. The Chief Personnel Officer, South Eastern
Railway, Garden Reach, Calcutta - 43.

...Respondents

- - - -

Counsel for the Applicant : Shri V.Venkata Ramana

Counsel for the Respondents : Shri N.R.Devraj, SC for Rlys

CORAM:

THE HON'BLE SHRI J.NARASIMHA MURTHY : MEMBER (J)

THE HON'BLE SHRI R.BALASUBRAMANIAN : MEMBER (A)

(Order of the Division Bench delivered by
Hon'ble Shri J.N.Murthy, Member (J)).

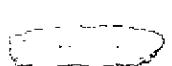
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This petition is filed for a relief to direct the
Respondents to pay the Commutation of Pension and Gratuity
due to the applicant forthwith with interest on the
Gratuity amount from 1-8-1987 till the date of payment.

Facts of the case are briefly as follows :-

The petitioner was recruited as temporary Assistant
Engineer in 1963 and worked in various capacities in South
Eastern Railway, Garden Reach, Calcutta. He retired on
31-7-1987 on superannuation. The Respondents have passed
orders in proceedings No.Pen.XIII/13482/12-110-99/Bk.2/P.164/1290

dated 2-6-1988 releasing revised provisional pension payment order to the applicant. Earlier to this provisional pension was released by separate orders dt.1-12-1987. It is stated that though the applicant was paid providentfund and leave salary, the Death cum Retirement Gratuity and Commutation of pension was not paid but is paid only provisional pension. It is submitted that as per para 315 and 316 of the Pension Manual and Railway Board's Instructions vide letter No.F(E)III/76,PNI/3 dt.8-4-1976 and E(D&A) 85, R.6-49 dt.24-2-1986 Pension of a retired employee can be sanctioned provisional if D & A Action is initiated against him before the date of his retirement. It is also clarified in the note below para 315 that D & A action means either the employee is placed under suspension or a charge-sheet for major penalty is served on him. It is submitted that there is no disciplinary action initiated against the petitioner nor is any charge-sheet issued to him. He is not even placed on suspension at any time. The withholding of gratuity and commutation of pension to the petitioner in these circumstances is totally unwarranted and unjust. Applicant has submitted representations dt.19-2-1988, 2-12-1988 and 14-2-1989 to the respondents for releasing the amounts due to him, but the respondents have neither paid the money nor replied to the petitioner. It is submitted that the action of the respondents in not settling the post retirement benefits due to the applicant is violative of Article 14 and 16 of the

Constitution of India. So he has filed this petition claiming that his commutation of pension and Gratuity to be paid with interest.

Respondents filed counter with the following contentions. The delay in payment of DCRG and final pension was caused in the matter of obtaining the acceptance of the Chief Engineer (R&Ad.), Andhra Pradesh, Hyderabad towards the portion of post retirement benefits for counting the service of the applicant for eight year from 1956 to 1963 rendered in PWD of Andhra Pradesh before joining the Railways. The applicant was well acquainted with the matter but he has suppressed the same while making this application. It is submitted that after a lapse of 17 years from joining this Railway the applicant submitted the representation to the Chief Engineer (R&Ad), Andhra Pradesh, Hyderabad as well as to the General Manager of this Railway for counting his previous service rendered in the PWD of Government of Andhra Pradesh for eight years from 1956 to 1963 towards payment of pension and DCRG. The General Manager wrote a letter to the authority concerned to have the clearance from them. Reminders were also sent to them. The applicant had also represented to the Chief Engineer (R&Ad)/Hyderabad on 2-1-84 and the General Manager, S.E. Railway issued reminder on 21-1-84 with the request to furnish requisite particulars of service of the applicant. The matter was under prolonged correspondence and exchanges of particulars since the Chief Engineer (R&Ad), Hyderabad indicated

their difficulties in tracing out the old record at such a distant date. This delay and difficulties to this department as well as the Chief Engineer (R&Ad), Hyderabad, Government of Andhra Pradesh could have been easily avoided if only the applicant had referred the matter and pursued the same soon after his joining the Railway service. It is further submitted that while furnishing the particulars vide letter No.447/Ser.II/E3/84-6 dt.3-3-86 the Chief Engineer mentioned that at this distance of time it was difficult to say whether Government of Andhra Pradesh was agreeable to bear the proportionate share of settlement dues. Ultimately the Chief Engineer vide his endorsement ~~at~~ to the order dt.21-9-88 has furnished the consolidated and final position to the Railways and the sanction of the ~~exam~~ competent authority to the counting of previous service of 8 years under government of Andhra Pradesh towards active service for post retirement benefits was issued on 6-7-89. after obtaining FA & CAO/S.E.Rlys concurrence duly examined in all its aspects. The commutation value of pension is only admissible on final pension in terms of para 1202 of M.R.P.R.1950 and as such the same could not be arranged/consequent on his retirement. The difficulty in the matter of payment of DCRG and commutation value of pension to the applicant was known to him but in the application he put forward an imaginary topics having no basis or record. The contentions and assumed allegations made therein attributing motives and malafide attitude on the part of the Respondents are totally baseless and highly irresponsible. It is further

stated that the applicant kept silent for more than 17 years after having joined in service in Railway and when he submitted the representation it was found difficult to trace out old records of service in order to verify the particulars furnished by the applicant.

The applicant has already been paid commutation value of pension amounting to Rs.84,877 on 6-3-90 and DCRG amounting to Rs.72,075/- on 2-3-90. Inview of the above it is clear that the applicant has not made out any case and there are no merits in the O.A..

We have heard Shri V.Venkata Ramana, learned counsel for the applicant and Shri N.R.Devraj, learned standing counsel for the Respondents. Shri Venkataramana states that there was an inordinate delay in ~~grant~~ granting the DCRG and Commuted pension to the applicant though he retired without any complaints, and / because of the inordinate delay the Respondents have to pay the interest on these amounts. The learned counsel for the Respondents argued that the amounts were already been paid to the applicant on 6-3-90 and 2-3-90. Though the commuted value of pension amounting to Rs.84,877/- paid on 6-3-90 and DCRG amounting to Rs.72,075/- paid on 2-3-90, the applicant still pursuing the matter and pressing for the interest and also making representations that he was not paid those amounts. Though he came from the Andhra Pradesh State Government 17 years back, he kept quite for all the time and represented at the time of retirement requesting to consider his past

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service for retirement benefits. There is a lot of correspondence between the Railways and the State Government for a long time and after a prolonged correspondence the state government also could trace the records and they prepared to pay their due share to contribute for the pension and other benefits. After that only the Respondents paid the amounts and for the delay in payment the Respondents are not at all responsible because there is a lot of correspondence between the State Government and Railways and for that the Railways should not be made responsible. If at all any delay is there, it is on account of the applicant, who kept ^{quiet} quite till his retirement about his services rendered in the State Government. Hence the Railways need not pay any interest on the amounts already paid to the applicant. There are no merits in the application and the same is liable to be dismissed. Accordingly we dismiss the same with no order as to costs.

MS

(J.N.MURTHY)
Member (J)

R.Balasubramanian
Member (A)

Dated: 29 August, 1991.

Registrar

To

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1. The General Manager, South Eastern Railway, Garden Reach, Calcutta-43.
2. The Chief Personnel Officer, South Eastern Railway, Garden Reach, Calcutta-43.
3. One copy to Mr.v.Venkata Ramana, Advocate 62/2RT, Saidabad colony, Hyderabad.
4. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hhd-
5. One copy to Hon'ble Mr.J.Narasimha Murty, Member (J)CAT.Hyd.
6. One spare copy.

pvm

6/8/91

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Tala)

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TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR

V.C.

AND

THE HON'BLE MR.

M(J)

AND

THE HON'BLE MR. J. NARASIMHA MULTY: M(J)

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

DATED: 29- 8 -1991

ORDER JUDGMENT

M.A./R.A./C.A. No.

in
D.A. No. 344/89.

T.A. No.

Admitted and Interim directions
issued.

Allowed.

Disposed of with direction.

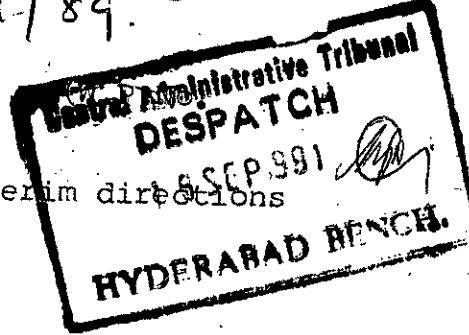
Dismissed.

Dismissed as withdrawn.

Dismissed for default.

M.A. Ordered/Rejected.

No order as to costs.



4/9/91