

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 608/91

~~T.A. No.~~~~198~~DATE OF DECISION 9 April, 1992Sri JB Madhava Rao PetitionerSri PB Vijayakumar Advocate for the Petitioner

Versus

Chief Admn Officer, SE Railway Respondent  
Visakhapatnam.Sri D. Gopala Rao Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr.

T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

The Hon'ble Mr.

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 Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

MGIPRRND-12 CAT/86-3-12-86-15,000

(HTCR)  
M(J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

ORIGINAL APPLICATION NO.608/91

DATE OF JUDGEMENT: 9-4-1992

BETWEEN

Sri J.B.Madhavarao

.. Applicant

A N D

1. Chief Administrative Officer  
(Construction)  
S.E.Railway,  
Visakhapatnam
2. Chief Engineer(Construction)  
SE Railway,Laxmipur  
Orissa.
3. Dy.Chief Engineer(Construction) I  
Section-II, SE Railway  
Laxmipur, Orissa

.. Respondents

Counsel for the Applicant :Sri RB,Vijayakumar

Counsel for the Respondents :Sri D. Gopala Rao

CORAM:

THE HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

*T. Chandrasekhara Reddy*

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JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE  
HON'BLE SHRI T.CHANDRASEKHARA REDDY, MEMBER (JUDL.)

This is an application filed by the applicant herein under Section 19 of the Administrative Tribunals Act to direct the respondents to pay a sum of Rs.23,920/- representing the interest at 18% on the delayed payments viz., DCRG, leave encashment, commutation value, pay and allowances and bonus and Rs.1619/- (representing the less payment in commutation value) together with subsequent interest and <sup>for</sup> such other relief or reliefs as may deem fit and proper in the circumstances of the case.

The facts giving rise to this OA in brief may be stated as follows:

1. The applicant herein was promoted to the post of ~~SM~~ Office Superintendent Gr.I in the construction organisation at Visakhapatnam. He was transferred to Laxmipur under Deputy Chief Engineer (Const.)-I Section II, Laxmipur on 18.4.1988. As a result of the investigation conducted by the Vigilance Cell of Railway Board under Ministry of Railways, the applicant was placed under suspension from 2.5.1988. The disciplinary proceedings were initiated as against the applicant. The Disciplinary authority held <sup>made against</sup> that the charges ~~imposed on~~ the applicant were proved. But the Appellate Authority exonerated the applicant of the charges framed as against him.

2. The disciplinary proceedings came to an end on account of the orders passed on 4/5.4.1990, by the Appellate Authority. But, pending appeal of the applicant before appellate authority certain payments were made to the

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applicant with regard to his pensionary benefits.

There was delay in payment

of Provident Fund, Provisional Pension, Leave Encashment,

Computation value, Death cum Retirement Gratuity, pay and

allowances, PL Bonus from 1.4.88 onwards upto 30.9.88 which

is the date of retirement of the applicant. So interest is

claimed in this OA for the delayed payments on those items.

A chart given by the applicant

with regard to the delayed payment duly indicating the due

dates as well as date of payment of the same. The same

is reproduced below:

Sr.No.	Description	Due Date	Actual Date of pay- ment	Period of of payment delay
1.	Provident Fund (own contribution)	1.10.1988	8.11.1988	1month 9 days
2.	Provisional Pension	1.11.1988	21.11.1988	21 days
3.	Leave Encashment	1.10.1988	20.12.1989	1yr 2months 20 days
4.	Commutation value	1.10.1988	27.02.1990	1yr, 4 months 27 days
5.	Death cum Retire- ment gratuity	1.10.1988	26.1.1990	1yr, 3 months 26 days
6.	Pay & allowances for suspension period	1.10.1988	20.12.1989	1yr, 2 months 20 days
7.	PL Bonus 87-88 (From 1.4.88 to 30.9.1988)	1.10.1988	20.12.1989	1yr 2 months 20 days

3. As could be seen from the above, there is a delay of 1 month 9 days in payment of Provident Fund, and

a delay of 21 days in payment of provisional pensions. In view of the reasonable

delay in payment of Provident Fund and Provisional

pension, the learned counsel did not press for the payment

of interest on the said two items.

*[Handwritten signature and scribbles]*

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So far, item No.3 leave encashment is concerned, the fact that the applicant became entitled to encashment of leave on 1.10.1988 is not in dispute in this case. Actually the leave encashment had been made by the applicant on 20.12.1989. Thus there is a delay of 1 yr 2 months and 20 days in payment of leave encashment to the applicant and so interests of justice require that the applicant should suitably be compensated by way of interest for the dealyed payment of leave encashment. Reasonable interest that can be awarded in this case will be 12% p.a. and hence, we direct the respondents to pay interest at the rate of 12% p.a. for the dealyed payment of leave encashment for the period of 1yr 2 months and 20 days.

4. So far item.4 Commutation value is concerned, <sup>be</sup> it may noted that the applicant had been drawing full pension upto the date the pension of the applicant had been commuted. Hence, the applicant could not satisfy us how interest is payable on commuted pension. As the applicant had been paid full ~~xxx~~ pension till the date of commutation, the applicant is not entitled for interest on commutation value of the pension and the same is liable to be disallowed and is accordingly disallowed.

5. Item No.5 is with regard to Death cum Retirement Gratuity. Admittedly, the applicant retired on superannuation ~~at~~ on 30.9.1988. Due date <sup>being</sup> for payment of DCRG on 1.10.1988 is not in dispute in this case. But, DCRG is actually paid on 26.1.1990 to the applicant resulting a delay of 1yr 3 months 26 days in. In this connection it will be worthy to note Govt. of India Decision No.3 in Rule 68 of the Central Civil Services (Pension) Rules, 1972 which is as follows:

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"(3) In order to mitigate the hardship to the Government servants, who on the conclusion of the proceedings are fully exonerated, it has been decided that the ~~xxxx~~ ~~of~~ interest on delayed payment of retirement gratuity may also be allowed in their cases, in accordance with the afore said instructions. In other words, in such cases, the gratuity will be deemed to have fallen due on the date following the date of retirement for the purpose of payment of interest on delayed payment of gratuity. The benefit of these instructions will, however, not be applicable to such of the Govt. servants who die during the pendency of judicial/disciplinary proceedings against them and against whom proceedings are consequently dropped."

6. It is further stated in the said circular that interest for delay in payment of DCRG is at 7% p.a. if the payment is made beyond 3 months and upto one year and 10% p.a. if the payment is made beyond one year. So, in view of the delayed payment of DCRG to the applicant, the applicant is certainly entitled for payment of interest and in our opinion, the reasonable rate of interest that has to be paid will be 12% p.a. Hence, we direct the respondents to pay the interest at the rate of 12% per annum, for the ~~xxxxx~~ delayed payment of DCRG, for the period from 1.10.88 to 20.12.1989.

7. As regards the prayer Rs.1619/- that represents the less payment in commutation value the facts would go to disclose that the applicant had been paid commuted value of pension of Rs.49,719/- on 5.1.1990 on the basis of his age as on 5.1.90. But, if the applicant had been

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paid commuted value of pension as on the date of his retirement that is 30.9.1988, then he would have been entitled to Rs.51,338/- is not in dispute in this case. The difference of Rs.1619/- in the commuted value of pension is due to the fact that the age of the applicant had been taken into consideration as on 5.1.90 by which time he was aged more than 59 years. If the commuted value of pension had been sanctioned on 30.9.1988, the applicant would have been paid as already pointed out Rs.51,338/-. Hence, there is a monetary loss of Rs.1619/- to the applicant as the commuted value of pension has been calculated as on 5.1.1990. So, it will be reasonable to direct the respondents to pay the difference of amount of Rs.1619/- to the applicant and accordingly, we direct the respondents to pay Rs.1619/- to the applicant being the difference in the commutation value. But, any how in the circumstances of the case, we make no orders as to payment of interest on the said amount of Rs.1619/-.

8. Admittedly, the applicant was under suspension from 2.5.1988. As already pointed out, he retired on superannuation on 30.9.1988. The applicant had not been paid his fully pay and allowances from 2.5.1988. But his full pay and allowances had actually been paid for the suspension period only on 20.12.1989. In the circumstances of the case, the due date for payment of the difference of pay and allowances for the suspension period can be taken as 1.10.1988. But, as already pointed out, difference of pay and allowances for the suspension period had been made on 20.12.1989 that is with a delay of 1 year 2 months and 20 days. Due to non-payment of the dues towards arrears of

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To

1. The Chief Administrative Officer (Construction)  
S.E.Railway, visakhapatnam.
2. The Chief Engineer (Construction)  
S.E.Railway, Laxmipur, Orissa State.
3. The Deputy Chief Engineer (Construction) I  
Secion-II, SE Railway, Laxmipur, Orissa State.
4. One copy to Mr.P.B.Vijaykumar, Advocate, CAT.Hyd.
5. One copy to Mr.D.Gopal Rao, AC for Rlys. CAT.Hyd.
6. One spare copy.

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salary, the applicant would have been put to loss and hardship. Hence, it will be reasonable to compensate the applicant in proper manner by awarding reasonable rate of interest, ~~that is~~ 12% simple interest in the circumstances of the case will be reasonable. Hence, we direct the respondents to pay interest at the rate of 12% per annum from 1.10.1988 to 20.12.1989 on the amount of difference of pay and allowances during the suspension period.

9. The applicant has claimed interest at the rate of 18% per annum <sup>on the said dues</sup>. The interest claimed by the applicant is certainly usurious and excessive. The applicant will be entitled only to a reasonable rate of interest, which in our opinion is 12% per annum for all the above indicated items.

10. As far as the last item, i.e. PL Bonus 87-88 is concerned, the amount is said to be a paltry amount of Rs.1000/- or even less. The amount being very paltry, we are not inclined to grant interest for that item. Hence, we disallow interest with regard to PL Bonus 87-88.

11. In the result, the OA is allowed as indicated above. The interest as directed by us should be paid to the applicant within three months from the date of receipt of this order. Rest of the OA is dismissed. We direct the parties to bear their own costs, in the circumstances of the case.

(T.CHANDRASEKHARA REDDY)  
Member (Judl.)

Dated: 9 April, 1992

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Deputy Registrar (5)

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TYPED BY 23/4/92 COMPARED BY  
CHECKED BY APPROVED BY

~~THE HON'BLE MR.~~

V.C.

AND

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

AND

~~THE HON'BLE MR. T. CHANDRASEKHAR REDDY~~  
~~MEMBER (JUDGE)~~

AND

~~THE HON'BLE MR. T. CHANDRASEKHAR REDDY~~  
~~MEMBER (JUDGE)~~

Member, J

Dated: 9-4-1992.

ORDER JUDGMENT

~~R.A./C.A./M.A. NO.~~

O.A.No. 608/91

~~T.A.No.~~

~~(W.P.No.)~~

~~Admitted and interim directions issued~~

Partly Allowed without

~~Disposed of with directions~~

~~Dismissed~~ Costs of the Application

~~Dismissed as withdrawn~~

~~Dismissed for Default.~~

~~M.A. Ordered/Rejected.~~

~~No order as to costs.~~

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