

(21)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD

DA 878/93.

Dt. of Order:16-12-93.

A.Martin Luther

....Applicant

Vs.

1. The Divisional Railway Manager,
SC Rlys, Vijayawada.
2. The Sr.Divisional Commercial Superintendent,
SC Rlys, Vijayawada.

....Respondents

--- --- ---

Counsel for the Applicant : Shri G.V.Subba Rao

Counsel for the Respondents : Shri C.Venkat Malla Reddy,
SC for Rlys

--- --- ---

CORAM:

THE HON'BLE SHRI T.CHANDRASEKHAR REDDY : MEMBER (J)

--- --- ---

....2.

JUDGEMENT

As per Hon'ble Shri T. Chandrasekhara Reddy, Member(J)

This is an application filed under section 19 of the Administrative Tribunals Act, to direct the respondents to pay to the applicant (1) Gratuity (2) Commuted Value of pension (3) Salary for the suspension period (4) Payment of Productivity linked bonus and (5) Leave salary. The facts giving rise to this OA in brief, are as follows:

2. The applicant, while working as Assistant Guard at Bezawada was suspended from duty w.e.f. 2.8.1985 as disciplinary proceedings were contemplated against him. The applicant was also prosecuted of the offence under section 3(a) of the Railway Property Unlawful Possession Act, 1966, in the Court of the 7th Metropolitan Magistrate, Vijayawada. The 7th Metropolitan Magistrate, Vijayawada, discharged the applicant of the charged offences under Section 245 Cr.P.C. as there was no *prima facie* case to be proceeded with as against the applicant. As the applicant was discharged of the said criminal case by the 7th Metropolitan Magistrate, Vijayawada, by orders dated 21.9.1993, passed by the Competent Authority, disciplinary proceedings as against the applicant were dropped and the period of suspension was also treated as duty period. The applicant was compulsorily retired from service in public interest with effect from 14-7-1986.

3. A sum of Rs.28,007/- was due to the applicant's DCRG. Out of Rs.28,007/- an amount of Rs.18,807/- was arranged to be paid to the applicant through the pay order dated 17.3.92 after withholding Rs.9,200/- towards the commercial debits, operating debits, and for rental liabilities. After deducting

23

the actual liability of Rs.9,110/- from the amount of Rs.9,200/- that was withheld as indicated earlier, the balance of Rs.900/- out of gratuity amount was arranged to be paid to the applicant through the pay order dated 29.9.93. The applicant was compulsorily retired as already indicated as per the orders of the competent authority w.e.f. 14.7.1986. According to the applicant, the gratuity that was payable to him became due on 15.7.86, and in view of the delayed payment, that he is entitled to interest at the rate of 12% per annum on the gratuity amount that became payable to him, on the due date 15.7.1986. It is also the grievance of the applicant that, on commuted value of pension, interest is liable to be paid to him. Even though the suspension period is ordered to be treated as 'duty period', it is brought to our notice that pay and allowances are not paid to the applicant for the said suspension period which is treated as duty period. Productivity linked bonus has also not been paid to the applicant for the suspension period.

4. Even though an order has been issued for payment of leave salary to the applicant of the value of Rs.4,213/-, it was not paid to him. Therefore, the applicant's contention is that he is liable to be paid interest for the delayed payment of leave salary w.e.f. 15.7.1986. The present OA is filed by the applicant for the redressal of the aforesated grievances.

5. Counter is filed by the respondents opposing this OA.

6. We have heard Sri GV Subba Rao, Counsel for the applicant and Sri CV Malla Reddy, Standing Counsel for the respondents.

GH

7. It is not in dispute that interest is liable to be paid to the railway servant for the delayed payment of gratuity. It is not in dispute where a disciplinary proceeding had been initiated as against a railway servant and when disciplinary proceedings~~s~~ are dropped as against him or the said railway servant is exonerated of the charges framed against him in the disciplinary enquiry, that the due date for payment of gratuity amount is the next date of his retirement. So, it is quite evident that the ~~g a t u l~~ to the applicant became liable to be paid ~~on~~ on 15.7.86 as 14.7.86 was the date of compulsory retirement of the applicant in public interest. As already pointed out, while narrating the facts giving rise to this OA, DCRG had been paid to the applicant as per the pay order dated 17.3.92. An amount of Rs.18,807/- after withholding a sum of Rs.9200/- from out of the total amount of DCRG of Rs.28,007/- ~~that~~ was payable to the applicant. From out of the withheld amount of Rs.9200/- after appropriating the actual liabilities of the applicant from the amount of Rs.9200/-, the balance of Rs.1,990/- had been paid to the applicant on 25.7.93. So, thus, as could be seen, the actual DCRG amount that was payable to the applicant as on 15.7.86 was Rs.18,807/- plus Rs.1990/- which is equal to Rs.20,797/-. There is no doubt about the fact ~~had been delayed~~ to the applicant in view of the disciplinary proceeding that was pending against him, and subsequently dropped. Therefore, the applicant has a right to be paid interest at the rate of 12% per annum from 15.7.86 (due date) upto 17.3.92 on the said amount of Rs.20,797/- and accordingly, the respondents are

T. C. M. P.

8. So far as the payment of wages for the suspension period is concerned, in view of the orders dated 21.1.93, passed by the competent authority, the respondents, are liable to pay full pay and allowances for the suspension period, as the same was treated as duty period. The applicant is also liable to be paid Productivity Linked Bonus for the suspension period. An order was passed by the competent authority to pay a sum of Rs. 4213/- towards leave salary. But the applicant is not yet paid the said amount. So, for the delay in the payment of leave salary to the applicant, the respondents are liable to pay interest at the rate of 12% per annum on the said amount of Rs. 4213/- w.e.f. 15.7.86 upto the date of payment of leave salary. Hence, the respondents are directed accordingly to pay interest.

9. In the counter of the respondents, it is pleaded that maximum 1 . . for the Productivity linked bonus that the applicant was entitled had been paid to him and that the applicant is not to be paid any further Productivity linked bonus. So, in view of the plea of the respondents, we hold that the applicant is not entitled to be paid any difference with regard to Productivity LInked Bonus.

10. In view of the facts and circumstances of the case, we are not inclined to grant any interest for the payment of difference of wages for the suspension period.

11. Provisional pension had been fixed to the applicant at Rs. 484/- p.m. w.e.f. 15.7.86 and paid to the applicant upto 8.5.92. It is only on 8.5.92 that the applicant's normal pension had been fixed at Rs. 754/- p.m. In view of the facts and circumstances of the case, the applicant had a right to be paid normal pension w.e.f. 15.7.86. The commuted value of pension had been paid to the applicant on 8.5.92. In view of the delay in paying the commuted value of pension, the learned counsel for the applicant

To

1. The Divisional Railway Manager,
S.C.Rlys, vijayawada.
2. The Sr.Divisional Commercial Superintendent,
S.C.Railways, vijayawada.
3. One copy to Mr.G.v.Subba Rao, Advocate, CAT.Hyd.
4. One copy to Mr.C.venkatamalla Reddy, SC for Rlys.CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

pvm

96

contends that interest is liable to paid to the applicant on the commuted value of pension w.e.f. 15.7.86 upto 8.5.92. As the applicant had been put to loss of interest due to the delayed payment of commuted value of pension, the loss of interest which the applicant had suffered has got to be adequately compensated. If the respondents are directed to pay normal pension of Rs.754/- p.m. after deducting provisional pension of Rs.484/- p.m. from 15.7.86 onwards, then the respondents will not be put to any loss. So, the difference of amount between the normal pension and provisional pension works out to Rs.270/- p.m. Therefore, if the applicant is paid the same w.e.f. 15.7.86 upto 8.5.92, the interests of the applicant, as well as, the respondents will be protected as neither of them would be put to any loss. It is needless to point out, on the difference of amount of Rs.270/- that is payable to the applicant, the applicant will be entitled also to be paid all the consequential the consequential benefits/allowances. Hence, the respondents are directed to pay to the applicant, the difference of Rs.270/- p.m. towards pension with all consequential benefits/allowances with effect from 15.7.86 to 8.5.92. The OA is disposed of accordingly with the above directions. The directions contained in this Judgement shall be implemented within three months from the date of communication of this judgement. No costs.

T. (Signature)
(T.CHANDRASEKHARA REDDY)
Member (Judl.)

(Dictated in the open court)

Dtd.: 16th Dec., 1993

kmv

Amrila
Deputy Registrar (S)cc

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE-CHAIRMAN

AND

THE HON'BLE MR.A.B.GORTHI : MEMBER(A)

AND

THE HON'BLE MR.T.GHANDRASEKHAR REDDY
MEMBER(J)

AND

THE HON'BLE MR.P.RANGARAJAN : MEMBER(A)

Dated: 16-12-1993

ORDER/JUDGMENT:

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

O.A.No. 878 in 93

T.A.No. (W.P.)

Admitted and Interim directions issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Rejected/Ordered.

No order as to costs.

pvm

