

(C) (S)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD.

* * *

O.A. 935/93

Dt. of Decision : 21.4.1994.

S.B. Marathe

.. Applicant.

Vs

1. General Manager,
South Central Railway,
Secunderabad.
2. Financial Advisor and
Chief Accounts Officer,
Secunderabad.

.. Respondents.

Counsel for the Applicant : Mr. S.B. Marathi,
Party-in-Person.

Counsel for the Respondents : Mr. V. Bhimanna, Addl. CGSC.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

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7.9.94

JUDGEMENT

I AS PER HON'BLE JUSTICE SHRI V. NEELADRI RAO,
VICE-CHAIRMAN I

Heard Shri S.B.Marathi, party-in-person
and also Shri V. Bhimanna, learned Standing
counsel for the Respondents.

2. This OA was filed praying for a direction
to the Respondents to pay the amount of leave
encashment for 10 days, and the interest for
the delayed payments of Rs.1,272/- towards
arrears of salary, Rs. 3,222/- towards the amount
due under Railway Government Employees Insurance
Scheme, Rs.33,662/- towards leave encashment,
Rs.1,888/- towards leave encashment for 12 days
and Rs.1,573/- towards leave encashment for
10 days which is not yet paid.

3. The applicant retired from service on
31-12-90. An amount of Rs. 1,272/- was paid
on 12-7-91 towards arrears of salary, an amount
of Rs.3,222/- was paid on 23-9-91 towards
Railway Government's Employees Insurance Scheme and
an amount of Rs. 33,662/- was paid by cheque
dated 2-5-91 ^{towards leave encashment}. It is stated for the Respondents
that the Service Register of the applicant
was not traced till about 2 months prior to the
retirement of the applicant and the same was
mis-placed by the applicant himself and hence
there was delay in paying the above amounts.
But in the rejoinder the applicant stated
that he has not mis-placed the S.R and he is not

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responsible for the same. Be that as it may, generally 6 months are required for finalising the retiral benefits payable. As admittedly, the SR was mis-placed till about 2 months from the date of retirement of the applicant and as malafides were not attributed by the applicant to any of the employees, we feel that it is not a case where there was intentional delay in payment of the amounts referred to above. As such, it is not a case where interest has to be ordered on the above amounts.

4. An amount of Rs. 1,888/- was paid towards leave encashment for 12 days in October, 1992. The delay in payment of the amount is not explained. Hence it is a case where interest has to be ordered at 12 per cent per annum on the above amount for 1½ years as claimed by the applicant.// The applicant claims that he has not availed the entire 10 days joining time when the office was shifted from Jalandhar to Hussainpur near Kapurthala and the distance between the two places is 29 Kms. That fact was not challenged for the Respondents. It is merely stated that when it was a case of the shifting of the office, the question as to whether employees are entitled to the credit of Earned leave in lieu of non-availment or short-availment of the joining time was referred to the Railway Board. When it is not in controversy that in case of transfer of Central Government employees, the Government employee is entitled to the credit of the E.L to the extent of non-availment of the joining time, and when there is neither any circular nor an O.M to the effect that in case of transfer of

3-21-92

To

1. The General Manager, S.C.Rly, Secunderabad.
2. The Financial Advisor and Chief Accounts Officer, Secunderabad.
3. One copy to Mr.S.B.Marathi, Party-in-person,
R.S, 44/1B CIB Plot No.50, Jayanagar, Saptapur, Dharwad. SS0001.
4. One copy to Mr V.Bhimanna, SC. for Rlys, CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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Handwritten:
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J. B. R.

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(Signature)

the employee due to shifting of the office, he is not entitled to the said availment, it ~~has~~ ^{is} to be held that even in such cases, the Central Government employees are entitled to the credit to E.L. to the extent of non-availment or short-availment of the joining time. Hence the applicant is entitled to the leave encashment for 10 days which is towards non-availment of joining time.

5.) It is stated for the applicant that an amount of Rs.33,662/- was paid towards leave encashment of 214 ~~working~~ days. As the applicant was paid leave encashment for 12 days on 22-12-92, the total payment was only for 226 days. Even ~~deducting of these~~ ^{after crediting} 10 days, the total leave to the credit of the applicant by the date of his retirement will be less than 240 days. The applicant claimed Rs. 1573/- for 10 days towards leave encashment and the said calculation is not challenged. As there is delay in payment of the above amount also, the applicant has to be paid interest on the same from 1-7-91 till the date of payment at the rate of 12 per cent ^{pa}.

6. In the result, the Respondents are directed to pay interest for 1½ years on Rs.1888/- at the rate of 12 per cent per annum. The Respondents are further directed to pay Rs.1573/- for 10 days towards leave encashment with interest at the rate of 12 per cent per annum thereon from 1-7-91 till the date of payment.

7. The OA is ordered accordingly. No costs.

(R. RANGARAJAN)
Member (Admn.)

(V. NEELADRI RAO)
Vice-Chairman

Dated 21st April, 1994
Open court dictation

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

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

AND

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

AND

THE HON'BLE MR. TCCHANDRASEKHAR REDDY
MEMBER (JUDL)

AND

THE HON'BLE MR. R. RANGARAJAN : M (ADMN)

Dated: 21-4-1994

~~ORDER~~/JUDGMENT

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

O.A.No.

in
935/93.

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.

