

(28) (40)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
AT HYDERABAD.

O.A.NO.1321 of 1993.

Between

Dated:23.3.95.

T.V.N.Rao

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Applicant

And

1. General Manager, South Eastern Railway, Garden Reach, Calcutta.
2. Financial Adviser & Chief Accounts Officer, South Eastern Railway, Garden Reach, Calcutta.
3. Chief Personnel Officer, South Eastern Railway, Garden Reach, Calcutta.
4. Chairman, Railway Board, (Ministry of Railways) Rail Bhavan, New Delhi.

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Respondents

Counsel for the Applicant : Sri. V.Venkataramana

Counsel for the Respondents : Sri. C.V.Malla Reddy, SC for Rly

CORAM:

Hon'ble Mr. A.V.Haridasan, Judicial Member

Contd:....2/-

D.A. 1321/93.

Dt. of Decision : 23-03-95.

ORDER

¶ As per Hon'ble Shri A.V. Haridasan, Member (Judl.) ¶

The prayer of the applicant, a retired Assistant Engineer from the SE Railway, is for a direction to the respondents to pay him his retiral dues with interest with effect from the date on which he effectively retired from the service of the SE Railway.

2. The facts can be brief stated as follows:-

3. While the applicant was working as Assistant Engineer in SE Railway he was sent on deputation to Indian Railway Construction Company Limited (IRCON) as Dy. Project Manager. The applicant having opted for absorption in IRCON the Government of India, Ministry of Railways by order dated 09-06-1988 communicated Presidential sanction for absorption of the applicant permanently in IRCON in public interest with effect from 24-4-87 treating that the date of retirement ~~from the Railways~~ as 24-04-1987. On receipt of this communication the applicant on 30-06-1988 addressed to the Chief Personnel Officer, SE Railway requesting for disbursement of ~~his~~ retiral benefits enclosing his undertaking as required. On 26 th September 1989 the CPO, SE Rly acknowledged the letter of the applicant sent on 5-9-89 probably reminding the authorities ~~of his claim for~~ retiral dues, expressing his regret in not having been able to ~~make~~ ^{to him} available his retiral benefits and promising to see that it ~~was~~ settled without further delay. Even thereafter, some correspondents ~~ensued~~ between the applicant and the Rly. Administration went on and eventually ~~the~~ ^{applicant's} monthly pension was paid to him with arrears in March 1992. Group Insurance and Leave Salary ~~were~~ paid in 1990 and DGRG was paid only in August 1993. The case of the applicant is that had the Rly. Administration processed

the matter of the retiral claims of the applicant in due time the same would have been made available to him, immediately after the order of Ministry of Railways dated 09-06-88 and therefore for the unreasonable delay the respondents have ~~to~~ got to compensate him by paying interest at the market rate.

4. The respondents in their reply contend that through the order dated 09-06-88 was communicated to the applicant, the applicant furnished the pension papers only on 07-05-89 that as the pension papers were not complete in several respects, the railway administration had to get further materials from the applicant who was away at Malaysia and that was the reason why the ~~retiral~~ dues of the applicant could not be paid promptly. It is further contended that in accordance with the instructions contained in the Indian Railway Manual of Pension Rules, the railway employee is bound to submit his pension papers one year in advance and as the applicant had not done so, the delay in disbursement of retiral dues of the applicant is attributable to him also. Therefore the respondents contend that the applicant is not entitled to any interest.

5. I have perused the pleadings and documents and I have also heard at length the learned counsel for both the parties. The applicant has claimed interest on the commuted value of pension ~~but~~ as the applicant got monthly pension till the date of commutation, there is no question of paying interest on the commuted value of the pension. Though the respondents would contend that the applicant submitted his pension papers only on 07-05-89 it is seen that there is inordinate delay even thereafter in finalising pensionary claims of the applicant. The learned counsel for the respondents say that the pension papers submitted by the applicant on 7-5-89 was not complete and the complete material was available only on 17-11-90 and therefore if at all there is any delay on the part of the respondents in finalising the pensionary papers of the applicant

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it was only after November 1990. I am able to accept this argument to the learned counsel for the respondents. On receipt of the pension papers on 7-5-89 if there was any relevant and necessary record missing then the same should have been immediately brought to the notice of the applicant and obtained from him. This could have been done within a period of three months. On that basis the pensionary benefits of the applicant could have been finally settled within a period of three months thereafter. So there is practically no justification of any delay beyond the period of six months from the date on which the applicant first submitted his pensionary papers on 07-05-87. It is seen ~~that~~ from the records that it took about one year for the Rly, Administration to find that the pension papers submitted on the applicant on 07-05-87 were wanting in certain periods. It shows the inordinate delay at which the matter relating to the pension are attributed to the office of the respondents. On account of this inordinate delay the statement of the retiral dues of the applicant was unduly delayed in such a case the employee concerned should be paid interest at a reasonable rate.

6. The learned counsel for the applicant brought to my notice the Ruling of the Supreme Court in AIR 1985 SC 356 (State of Kerala and others Vs. M. Padmanabhan Nair) it was held that any delay beyond a period of two months from the date of retirement of an employee in disbursing his retiral dues is payable and in such cases interest at the current market rate should be paid to the employee. Seeking support from the above ruling the learned counsel for the applicant argued that the case is an example for culpable delay and the circumstances of the case warrant for a direction to the respondents to pay the interest to the applicant on the delayed

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payment at the rate of 18% per annum. Though it cannot be disputed that the delay in this case on the part of the respondents in process^{of} the retiral claim of the applicant is inordinate and avoidable, there are some differences between the facts of the case and the case on hand. In this case the prior claim of the applicant was not a normal retirement on superannuation or a voluntary retirement. But it was a deemed retirement on his absorption in a Govt. of India undertaking though the retirement was w.a.f., 24-04-87 the orders~~regarding~~ this case was issued by Ministry of Railways only on 09-06-88. Therefore the respondents could not have anticipated the applicant's retirement ~~on or~~ before 07-05-89, further as the applicant was away in Malaysia for getting the necessary papers signed by the applicant some time was required. Therefore I am of the considered view that the rate of interest should be paid to the applicant is 12% and not 18% on claimed for him.

7. In the light of what is stated in the foregoing paragraphs I am convinced that the case for retiral dues to the applicant has been paid to him after a long inordinate and avoidable delay and that for that reason the applicant is entitled to interest on the delayed payments at the rate of 12% per annum.

8. In the result the application is allowed in part. The respondents are directed to pay to the applicant interest at the rate of 12% per annum from the date six months after 07-05-1989^{of} on the arrears/commutation of pension, DGRG and Leave Encashment etc., till the date(s) on which the respective

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items were disbursed to him within a period of three months from the date of communication of this order. As the applicant was paid arrears of pension and monthly pension till the date of commutation of his pension he is not entitled to interest on the commuted value of the pension but instead of will be entitled to arrears of pension etc., There is no order as to costs.



(A.V. Haridasan)
Member(Judl.)

Dated : The 23rd March 1995.
(Dictated in Open Court)


Deputy Registrar(Judl.)

Copy to:-

1. General Manager, South Eastern Railway, Garden Reach, Calcutta.
2. Financial Adviser & Chief Accounts Officer, South Eastern Railway, Garden Reach, Calcutta.
- spr 3. Chief. Personnel Officer, South Eastern Railway, Garden Reach, Calcutta.
4. Chairman, Railway Board, (Ministry of Railways), Rail Bhavan, New Delhi.
5. One copy to Sri. V.Venkataramana, advocate, 62/2RT Saidabad colony. Hyd.
6. One copy to Sri. C.V. Malla Reddy, SC for Rlys, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One spare copy.

Rsm/-