

(G)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD

* * * *

O.A. 1104/93.

Dt. of Decision : 8.6.94.

A. Narayana Rao

.. Applicant

vs

2. Union of India Rep. by
the General Manager,
S.E. Railway, Garden Reach,
Calcutta - 43.

2. Chief Project Manager,
(S&C), S.E.Railway/
Visakhapatnam.

3. Divl. Railway Manager, (Engg.)
S.E. Railway,
Visakhapatnam.

.. Respondents.

Counsel for the Applicant : Mr. Y. Subrahmanyam

Counsel for the Respondents : Mr. N.R. Devaraj, Sr.CGSC

CORAM:

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

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

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J U D G M E N T

I as per Hon'ble Sri R.Rangarajan, Member(Administrative) X

The applicant states that one Sri P.N.Murthy was the Stores of DSC Stores and Custodian for the PWI marshalling yard, Waltair upto 17.6.1983 when he fell sick. The applicant herein was posted in his place on 31.10.1983. The materials were not handed over to the applicant by the said Sri P.N.Murthy and he took over the charge of PWI marshalling yard on 31.10.1983 without verifying the materials in the Stores. The applicant states that there were none to handover stocks kept under the custody of Sri P.N.Murthy, DSC Stores and the records and materials of the stores were in chaotic condition which were not susceptable for any verification. No labour was also arranged for sorting out the material ^{for} and verifying the same with the Stock Register to know the shortages or excess amount of materials. The applicant further alleges that Sr.DEN(C) was though informed about the position, has not given any assistance to sort out the material while he was Incharge of the marshalling yard. The applicant went on deputation to RITES organisation as per letter No.WEX.6/ dt. 31.1.1985. Later, he became the Assistant Engineer (Construction), Visakapatnam and finally retired from service on superannuation on 31.12.1991. His DCRG amount was paid on 28.4.1992 and an amount of Rs.7,074/- was kept towards back from the final settlement dues ~~for~~ the following dues:-

"(a) House rent for the period from 1.1.92 to 5.2.92	153-00
(b) House rent for the period from 1.2.85 to 30.9.85	626-00
(c) Difference of Electrical charges for the period from 1.9.91 to 5.2.92.	6-00
(d) Difference of Electrical charges for the period from 1.2.85 to 30.9.85.	16-00
(e) Water charges for the period from 1.1.92 to 5.2.92.	20-00
(f) Interest towards delayed payment of FSC charges.	508-00

(K.B) (U.P)

(g) Amount kept in deposit as ordered by
Chief Administrative Officer(C),
Visakapatnam on the Note sheet dt.
3.3.92 at the rate of 10% of DCRG. 5,775-00

Total Rs. 7,074-00

2. The contention of the applicant is that all the dues
had been paid by him regularly and/there is no amount due from
him to the Railways. The deductions made as per items (a) to
(f) mentioned above were all paid by him in time and keeping
back of Rs.5,775-00 under the heading "Amount kept in deposit
as ordered by Chief Administrative Officer(C), Visakapatnam
on the note-sheet dt. 3.3.92 at the rate of 10% of DCRG
is irregular and he is not held responsible for shortage
of any material. The applicant prays for payment of interest
on the kept back amount of DCRG for the period from 1.1.1992
to 28.4.1992 as he retired on 31.10.1991. Further, the amounts
mentioned against items (a) to (g) mentioned above have been
irregularly kept back and interest has to be paid on the entire
amount of Rs.7,074-00 from the date of his retirement till
the amounts are paid to him.

3. This O.A. has been filed for a direction to the
respondents to arrange payment of Rs.7,074-00 unlawfully
recovered and held up from DCRG of the applicant and to pass
orders for payment of interest at market rate.

4. The respondents in their counter affidavit have stated
that the applicant was retaining his railway quarter upto
5.2.1992 and his DCRG was settled on 28.4.1992 within three
months from the date of vacation of railway quarter. The
settlement dues are normally to be paid within three months
from the date of retirement as per rules. It is stated

by the respondents that the DCRG was paid on 28.4.1992 to the applicant within three months from 5.2.1992 as the applicant was keeping the railway quarter till that date. Keeping back of DCRG amount for non vacation of quarter is permitted. The respondents further state that the deduction of Rs.7,074/- from the settlement dues is ^{Government} in order as/ dues are to be recovered from settlement dues.

As regards the amount kept in deposit against item (g) mentioned in para-1 above to the tune of Rs.5,775-00, the respondents state that the responsibility for shortages of material was to the extent of Rs.1,29,518-78 ps. and that the responsibility was fixed on Sri P.N.Murthy. However, as ~~xxxxxxxxxx~~ the said amount could not be recovered from Sri P.N.Murthy, who was held responsible for the shortages, the General Manager has been approached to write off the said amount. The applicant has been held responsible for the lapse that he did not take inventory of the stores before he took over the charge. Disciplinary proceedings were initiated against the applicant which ended with the imposition of penalty of Censure to the applicant. It is stated that the sum of Rs.5,775/- will be paid to the applicant soon after the write off sanction has been obtained from the General Manager.

5. The learned counsel for the applicant has submitted a rejoinder to the reply affidavit filed by the respondents. A perusal of the rejoinder does not indicate clearly whether the house rent for the period from 1.1.1992 to 5.2.1992; 1.2.1985 to 30.9.1985; and the electrical charges for the period from 1.9.1991 to 5.2.1992 and 1.2.1985 to 30.9.1985; and water charges for the period from 1.1.1992 to 5.2.1992 ^{already} have been paid by the applicant or not.

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Though the applicant avers that he has paid the above charges through cheques and other means, he has not given any account or deduction done as per his pay bills or through other means. The details of remittances which have been sent to Senior Divisional Accounts Officer, Visapatnam given by him in page-3 of the rejoinder, it does not indicate clearly whether the amount sent by him meets the full requirement of house rent, electrical and FSC charges. From period of the details given/cannot be taken as conclusive proof to come to the conclusion that the charges as required against the items mentioned above has been fully paid by him though the cheques. In the absence of required details, we have to go by the official records as submitted by the respondents and come to the conclusion that he is due for the charges mentioned against items (a) to (e) of the recoveries made. As regards the interest deducted by the respondents towards delayed payment of FSC charges, the applicant states that he had made remittances to the Senior Accounts Officer, S.E.Railway, Visakapatnam or to FA & CAO, S.E.Railway, Calcutta regularly every month. He further submits that they have not been connected properly and may be lying in Suspense Account of the office. He has not given any details. He further submits that FSC charges are made directly by the employer and the employee is not liable to pay FSC charges, and interest thereon for the delayed payment. Nothing could be said in this connection as no details are furnished in the rejoinder regarding the payment of FSC charges in time. We are also not in a position to come to a conclusion whether the amount has been regularly paid ~~and~~ to Sr.Accounts Officer and if so the details of remittances were received

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in the accounts section. These are matters for factual verification on dues. In view of the above, we are not in a position to say whether the charges mentioned under the items (a) to (f) amounting to Rs.1,299/- is necessary to be deducted from the final settlement dues of the applicant. In our opinion, a factual verification is necessary. Therefore, R-1 should depute a responsible officer who deals with the case of the applicant to show to the applicant the calculation and to verify whether the recoveries made are in order or not. With this verification, it should be possible to reconcile the deduction to the extent of Rs.1299/- to the satisfaction of the applicant. As this amount of Rs.1299/- is a small amount, it is not necessary to award any interest on this amount even if the same is wrongly deducted as the details of deductions given by the applicant are not readily susceptible for verification.

6. The amount of Rs.5,775/- has been kept back for the reason that the write off sanction for the shortages of the stocks have not been received from the General Manager. This amount of Rs.5,775/- is 10% of DCRG amount and hence the contention of the applicant that it is more than 10% ~~is~~ is not correct. The applicant has been censured for the lapse that he has not taken inventory of the Stores before he took charge as PWI maralling yard. This punishment of Censure was awarded to him even before his retirement. He has retired on 31.12.1991. Presuming that is required a period of 3 months/for finally settling him this amount of Rs.5,775/- is with the respondents for over nearly two years. As the applicant is not held responsible for the shortages in Stores there is no reason for keeping back this amount just because the competent authority has not given write off sanction for the loss of Stores.

Writing off of loss of Stores is an internal matter of the Railways and the applicant cannot be held responsible for the delay in porcessing of write off sanction. Hence, we see no reason for keeping the said amount of Rs.5,775-00 any further. It will be fit and proper to give a direction to return the said amount to the applicant within a period of one months from the date of receipt of this order and in case the respondents fail to return the amount within that period, the applicant is entitled for interest on the said amount from the date of his retirement viz. 1.1.1992. In the result the following directions are given -

(a) Amount of Rs.5,775/- has to be returned to the applicant within one months from the date of receipt of this copy of judgment. If the respondents fail to comply with the above direction, the applicant is entitled to get interest @ 10% p.a. from the date of his retirement till the amount is returned to him, along with the principal amount,

(b) The recoveries made in regard to house rent, electridal charges, water charges and interest towards delayed payment of FSC charges have to be reconciled by a senior official dealing with such cases in presence of the applicant. If after verification, the amount is incorrectly kept back, the same should be returned within a month from the date of completion of verification. As the amount kept back for these charges are only Rs.1299/- and as the applicant is not in a position to substantiate that this amount has been wrongly kept back, no direction is given in regard to payment of interest, charges on the said amount,

[Handwritten signature]

(c) The DCRG to the applicant was paid on 28.4.1992.

The applicant vacated the Railway Quarter on 5.2.92 and he has been paid DCRG within three months from that date. Hence, there is no justification for payment of interest on DCRG amount for a period of 28 days as the DCRG was paid 28 days beyond 3 months period from the date of his retirement.

THE C.R. IS ORDERED ACCORDINGLY. NO COSTS.

(R. Rangarajan)
Member (Admn.)

(T. Chandrasekhara Reddy)
Member (Judl.)

Dated 8th June, 1994.

Grh.

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Deputy Registrar (Judl.)

Copy to:-

1. General Manager, S.E.Railway, Garden Reach, Union of India, Calcutta-43.
2. Chief Project Manager, (S&C), S.E.Railway/Visakhapatnam.
3. Divl. Railway Manager, (Engg.), S.E.Railway, Visakhapatnam.
4. One copy to Sri. Y. Subrahmanyam, advocate, Dr. No. 45-58-16, Narasimhanagar, BFO Saligramapuram, Visakhapatnam-24.
5. One copy to Sri. M.R. Devaraj, Sr. CGSC, CAT, Hyd.
6. One copy to Smt. Library, C.I.T, Hyd.
7. One spare copy.

Rem/-

STAFF
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