

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

..

O.A.No.317 of 1997.

Date of decision: 21.5.1998

Between:

K. Krishna Murty. .. Applicant

and

- 1. Union of India represented by
General Manager, South Central
Railway, Rail Nilayam,
Secunderabad.
- 2. Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad.
- 3. Chairman, Railway Board,
Rail Bhavan, New Delhi - 110 001. Respondents.

Counsel for the applicant: Sri G.Ramachandra Rao.

Counsel for the respondents: Sri J.R.Gopal Rao.

JUDGMENT.

(by Hon'ble Sri H.Rajendra Prasad, Member (A)

..

O.A.317/97.

O R D E R.

Hon.H.Rajendra Prasad, Member(A)

The applicant, while working as Deputy Controller of Stores, was compulsorily retired from service on 16.8.1990.(Aggrieved by the decision, he filed O.A.No.235/91 which was dismissed on 2.4.1992.) Provisional pension was granted to the applicant but gratuity has not been sanctioned to him so far. The applicant has been making representations to various authorities for the past several years but these according to him, had not yielded any result or reply until filing of the O.A.

2. It is revealed that disciplinary proceedings were initiated against the applicant successively on two occasions and the cases progressed as under :

Ist disciplinary proceedings :

- Memo of charges issued - 29th October, 1987
- Compulsorily retired - 16th August, 1990
- Inquiry completed - 14th September, 1990
- Defence submitted - 5th October, 1990
- Inquiry report submitted - 24th November, 1994
- (Inquiry spread over - 4 years and one month)
- Copy of the Inquiry report furnished. - Within a week from the date of submission of the Inquiry report.
- Final defence submitted - 31.12.1994
- Case finalised - 23.4.1997.

The proceeding ended in communication of displeasure and warning to the applicant.

IInd disciplinary proceedings :

- Compulsorily retired - 16th August, 1990
- Charge sheet issued - 30th November, 1992
- Inquiry completed - 9th May, 1995
- Inquiry report submitted - 23rd July, 1996
- Final defence submitted - 9th August, 1996
- Case finalised - 6th October, 1997

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The delay in this case was mainly due to change of Enquiry Officers. A decision to impose a penalty of 10% reduction in the pension of the applicant was taken in ^{due} course.

3. The applicant states that in the common enquiry held against 4 officials charged in this case, including the applicant, one was imposed only a minor penalty, and the remaining two were let off with mere displeasure while he was alone visited with a major penalty. The completion of the case took much longer than the mandatory limit of 180 days prescribed by the Board for completion of disciplinary proceedings. The applicant seeks a direction to the respondents to sanction to him the retirement gratuity with interest @ 12% per annum from 16.8.1990 i.e., the date of compulsory retirement from service.

4. The Respondents in their counter-affidavit state that owing to the pendency of a major penalty charge-sheet at the time of the retirement of the applicant it was decided to withhold the gratuity due to him under the provisions of Rule 2308(RII) of IREC Vol.-II. They state that due to various irregularities committed by him, the railways had sustained a loss to the extent of Rs.5.09 lakh. Under the provisions of the said rule (2308 of IREC), when departmental/judicial proceedings are pending, no final pension, gratuity and commutation of pension can be paid to the delinquent officer, with the sole exception of Provisional Pension, until the conclusion of such proceedings. A provisional pension was duly sanctioned to the applicant. It is added that the applicant has already been paid interest at 10% per annum towards delayed payment of unavailed leave as directed by this Tribunal in O.A.No.1148/95; and that the gratuity, final pension and computation thereof were already being processed in October, 1997.

5. Regarding the delayed finalisation of disciplinary cases against the applicant, it is argued by the Respondents that the limit of 180 days cited by the applicant is only a

model time-schedule meant to serve merely as a guideline and that a guideline cannot be equated to an absolute rule. Asked to explain the reasons for the delay in completion of enquiries, the Respondents have filed an additional affidavit giving a detailed account of the necessity for changing the Inquiry Officers and how each such successive change contributed to the delay. The explanation is not adequate ^{and} fails to make it clear as to why the delay which occurred in this case could at all be attributed to any action, or inaction, on the part of the applicant himself.

Rule 87 of the Railway Servants Pension Rules, 1993 on which the applicant relies, is as under :

" 87. Interest on delayed payment of gratuity :

(1) If the payment of gratuity has been authorised after three months from the date when its payment became due on superannuation and it is clearly established that the delay in payment was attributable to administrative lapse, interest at such rate as may be specified from time to time by the Central Government in this behalf on the amount of gratuity, in respect of the period beyond three months, shall be paid :

Provided that the delay in the payment was not caused on account of failure on the part of the railway servant to comply with the procedure laid down in this Chapter.

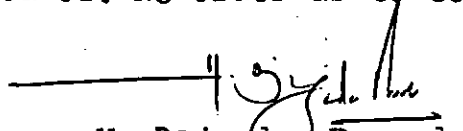
(2) Every case of delayed payment of gratuity shall be considered by the General Manager or Administrative Head of the Railway Unit, as the case may be, and where the said General Manager or Administrative Head is satisfied that the delay in the payment of gratuity was caused on account of administrative lapse, he shall order for arranging the payment of interest. The powers to pass order for payment of interest on delayed payment of death-cum-retirement gratuity shall rest with General Manager or Administrative Head of the Railway Unit and shall not be delegated to any lower authority."

6. In view of the repeated submissions made by the Respondents that action has since been initiated to settle the gratuity and to finalise the pension and commutation thereof, no directions are called for in this regard, if sanctions have already been issued and taken payment of by the applicant."

8/2/15


7. The question that remains is one concerning the claim of interest on the delayed payments. The contention of the respondents is that interest on gratuity would be due and justified only when the railway servant is exonerated of the charges on the conclusion of departmental proceedings. They argue that since the applicant has been served with the penalty of 10% cut in his pension, it cannot be held that he has been exonerated and, therefore, the question of interest does not arise in this case. It is, however, seen that the departmental enquiry got stretched across an inordinately long period due to administrative delays on the part of departmental authorities which were evidently not caused in any way by the applicant. Such being the case, it would be unfair to hold that interest cannot be sanctioned on such clearly delayed payments. It is held that the enquiries in the case and the finalisation of departmental proceedings in the second charge-sheet got inordinately delayed - whatever the reasons - and the applicant was in no way responsible for this. There is no reason why the applicant should suffer the adverse consequences of such delays in addition to the reduction in pension already imposed upon him. It is, therefore, considered expedient and fair that he should be held to be eligible for interest on the withheld gratuity and should be granted the same. It is accordingly directed that interest at the current departmental approved rates shall be calculated and paid to the applicant, with effect from the 91st day following his retirement, till the date of actual disbursement of gratuity to him.

Thus the O.A. is disposed of. No order as to costs.


 H. Rajendra Prasad,
 Member (Admn.)

21 MAY 98

Dated the 21st May 1998.


 Dy. Registrar

O.A. 317/97

To

1. The General Manager, Union of India,
SC Rly, Railnilayam, Secunderabad.
2. The Chief Personnel Officer,
SC Rly, Railnilayam, Secunderabad.
3. The Chairman, Railway Board,
Railbhavan, New Delhi-1.
4. One copy to Mr.G.Ramachandra Rao, Advocate, CAT.Hyd.
5. One copy to Mr.J.R.Gopal Rao, SC for Rlys, CAT.Hyd.
6. One copy to HHRP.M.(A) CAT.Hyd.
7. One copy to DR(A) CAT.Hyd.
8. One spare copy.

pvm

9/6/98

I COURT

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COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE

VICE-CHAIRMAN
AND

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

DATED: 21-5-1998.

ORDER/JUDGMENT

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

in

O.A.No.

317/97.

T.A.No.

(w.p.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद ब्याचपीठ
HYDERABAD BENCH
127 MAY 1998
Despatch no. 1
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