

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH  
AT HYDERABAD.

..  
O.A.No. 883 /97.

Date: July 16, 1997.

**Between:**

S. Krishna Murthy. .. **Applicant**

and

1. General Manager,  
South Central Railway,  
Rail Nilayam,  
Secunderabad.
2. Union of India represented by Secretary,  
Railway Board, Rail Bhavan, New Delhi.

**Respondents.**

Counsel for the applicant: Mr. G.V.Subba Rao

Counsel for the respondents: Sri N. R.Devaraj.

**Coram:**

Hon'ble Sri R. Rangarajan, Member (A)

Hon'ble Sri B.S. Jai Parameshwar, Member (J).

**JUDGMENT.**

(by Hon'ble Sri R. Rangarajan, Member (A))

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Heard Sri G.V.Subba Rao for the applicant and  
Sri N.R.Devaraj for the respondents.

2. The applicant was initially appointed as a Clerk  
in the Central Railway on 1-9-1956. Thereafter he was  
promoted as PWI Grade II in 1975 and he was promoted as  
Assistant Engineer in 1982 and finally he was promoted as DEN  
Senior Scale in 1994 and retired from service on attaining  
the age of superannuation on 30-6-1995. At the time of  
his retirement, he was given provisional pension and

*Group Insurance amounts; but his gratuity was not paid and*

final pension is not yet fixed. Hence the commutation amount was also not paid to him.

3. It is stated that there was a ~~major~~ charge-sheet for major/pension issued to the applicant while he was working as Assistant Engineer ~~in~~ for pecuniary loss caused to the Railways to the extent of Rs-1,16,650/- by charge-sheet dated 13--11--1991. The applicant submitted a reply to the charge-sheet on 10--7--1992. The Charge-sheet was issued ~~in~~ earlier to his retirement, enquiry proceedings were also initiated, but the enquiry came to a close on 17--7--1996 after his retirement. Thereafter no action <sup>.. a copy of</sup> has been taken to supply him ~~the~~ the enquiry report to enable him to submit his ~~a~~ statement in defence on the basis of the enquiry report. The applicant now submits that more than two years <sup>have</sup> elapsed after his retirement and his final pension has not yet been fixed, consequently his commutation of pension and gratuity amounts have also not been paid to him.

4. This O.A., is filed praying for a direction to the respondents to produce the records pertaining to the withholding of gratuity and commutation of pension of the applicant consequent on his retirement under superannuation on 30-6-1995 even after the conclusion of the enquiry proceedings and for a consequential direction to the respondents to release the gratuity and commutation of pension together with interest at 18% for delayed payment.

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The applicant relied on the decision in  
~~B.V.~~ S.C.  
~~B.V. KAPOOR vs. UNION OF INDIA~~ (ATR 1990(2)662

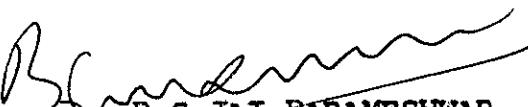
and the judgment of the Principal Bench in JEET SINGH VIRDY 1992(2)SLJ (CAT) 159.  
~~JEET SINGH~~ vs. UNION OF INDIA /~~1992(2)SLJ (CAT) 159~~ We do not find that these two decisions are of any use or help to the applicant at the present juncture. But the principal Bench has held in ~~B.V. Kapoor Vs. Union of India 1990(SCC) (L&S) 696~~ that the Employee's right to pension is a statutory right. In that case, the order to withhold gratuity as a measure of penalty was held to be obviously illegal and devoid of jurisdiction. But that observation of the Principal Bench can be advanced only after the penalty is imposed on the applicant.

5. There is no doubt that the applicant's case has to be finalised quickly as he is a retired Railway Official. In case, if any penalty is to be imposed, the decision to that effect has to be taken quickly so as to enable the applicant to get his gratuity and commutation of pension in accordance with rules speedily.

6. In that view, we feel that a direction has to be given to the respondents, especially to Respondent No.2 to decide his case quickly so that ~~any~~ retired Government servant (the applicant herein) will not be put to any more inconvenience. We feel that the whole procedure should be completed within a period of four months from the date of receipt of a copy of this Order. If the proceedings

are not completed within the stipulated period including the award of punishment, if any, the applicant may approach this Tribunal for release of the gratuity and commutation amounts by filing a fresh O.A.

7. With the above direction, the O.A., is disposed of at the admission stage itself. No costs. Registry to send a copy of O.A., along with the judgment to Respondent No.2.

  
B.S.JAI PARAMESHWAR,  
Member (J)  
16.7.97

  
R.RANGARAJAN,  
MEMBER (A)

  
DR (S)

Date: 16--7--1997.

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Dictated in open Court.

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