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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))

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

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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 ^{penalty} for major/~~penalty~~ 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 has been taken to supply him ^{a copy of 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 ^{have} two years 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
D.V. S.C.
~~B.V.~~ KAPOOR vs. UNION OF INDIA (ATR 1990(2)/662

and the judgment of the Principal Bench in JEET SINGH VIRDI
1992(2)SLJ (CAT) 159.

~~VIRDI~~ 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 ^{the} gratuity as a measure of penalty was held
is 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.

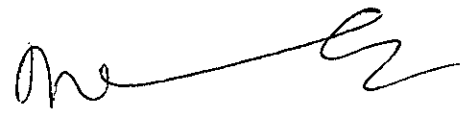
6. In that view, we feel that a direction has
to be given to the respondents, especially to Respondent No.2
to decide his case quickly so that ^{the} retired Government
servant (the applicant herein) will not be put to any more
inconvenience. We feel that the whole procedure should be
completed within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

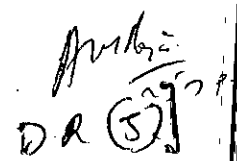
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are not completed within the stipulated period including the award of punishment, if any, the applicant may approach this Tribunal for release of the gratuity and commutation amounts by filing a fresh O.A.

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 (5) 16.7.97

Date: 16--7--1997.

Dictated in open Court.

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