

FORM NO. 21

(Sec Rule 114)

THE  
IN/CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD.

OA / ~~TA/RA~~ / ~~CP~~ / ~~MA~~ / ~~PL~~ ..... 1476 ..... of 1997

..... S. Subramanyaswara Rao ..... Applicant (S)

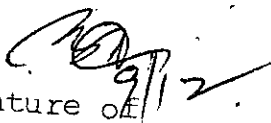
Versus

..... The G. M. Secy. Secy. of Govt. of Andhra Pradesh ..... Respondent (S).

INDEX SHEET

Serial No	Description of Documents and Dates.	Pages.
Docket Orders.		
Interim orders		1
Orders in MA (s)		
Reply Statement		
Rejoinder		
Orders in (Final orders)	17-11-97	28 to 27

Certified that the file is Complete  
In all respects.

  
Signature of  
Dealing Hand  
(In Record Section)

Signature of S.O.

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH : HYDERABAD.

O.A. NO. 1476 OF 1997

S. Subramanyeswara Rao Applicant(s).

VERSUS.

General Manager, S.C. Railway  
Secunderabad and two others.  
(Respondents)

Date	Office Note	Order
11.9.97		<p>Heard Mr. P.P. Vittal learned Counsel for the <sup>Mr. Sivaji</sup> applicant - Mr. C.V. Malla Reddy, learned standing Counsel for the respondents. Part heard. List it next Tuesday to enable Mr. C.V. Malla <sup>Siva</sup> Reddy standing Counsel for the respondents to ascertain the exact position of the case.</p> <p><i>XSM</i></p> <p><i>HARP</i> <i>M(A)</i></p>
17.11.97		<p>OA disposed of at admission stage. order vide separate sheet.</p> <p><i>HARP</i> <i>M(A)</i></p> <p><i>MD</i></p>

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD.

ORIGINAL APPLICATION NO. 1476 /97.

S. Subrahmanyeswara Rao  
(Applicants(s)).

~~Union of India, Regd. By~~

Genl. Manager. SChy.  
Secbad & 2 others  
Respondents(s).

The application has been submitted to the Tribunal by

Sri. P.P. Vittal Advocate/Party-

in-person Under section 19 of the Administrative Tribunal Act.  
1985 and the same has been scrutinised with reference to the  
points mentioned in the check list in light of the provisions  
in the Administrative Tribunal (procedure) Rules 1987.

The Application is in order and may be listed for Admissiion

~~on~~

[Signature]  
Scrutiny Asst  
4-11-97

[Signature]  
Deputy Registrar(Judl).

10. Is the application accompanied IPO/DD, for Rs.50/-. ✓
11. Have legible copies of the annexure duly attested been filed. ✓
12. Has the applicant exhausted all available remedies. ✓
13. Has the index of documents been filed and pagination done properly. ✓
14. Has the declaration as a required by item No. 7 of form, I been made. ✓
15. Have required number of envelopes (file six) bearing full addresses of the respondents been filed. ✓
16. (a) Whether the relief sought form arise out of single cause of action. ✓
- (b) Whether any interim relief is prayed for. ✓
17. In case an Ma for commutation of delay in filed, it supported b an affidavit of the applicant. ✓
18. Whether t is cause ben heard by a single bench. ✓
19. Any other points. ✓
20. Result of the scrutiny with initial of the scrutiny clerk. ✓

  
Scrutiny Assistant

Section Officer.

Deputy Registrar.

Registrar.

7/4/97  
rechecked

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD.

Dairy No. 3456

Report in the Scrutiny of Application.

Presented by SP Vittal Date of presentation.

Applicant(s) SS Rao 31/9/97

Respondent(s) Govt, SCL, SC & Co

Nature of grievance Retirement Benefits

No. of Applicants 1 No. of Respondents 3

CLASSIFICATION.

Subject..... Retirement Benefits No. (C) Department SCL (32)

1. Is the application in the proper form, (three complete sets in paper books form in the two completions). S
2. Whether name description and address of all the parties been furnished in the cause title. S
3. (a) Has the application been fully signed and verified. S  
(b) Has the copies been duly signed. S  
(c) Have sufficient number of copies of the application been filed. S
4. Whether all the necessary parties are impleaded. S
5. Whether English translation of documents in a language, other than English or Hindi been filed. S
6. Is the application on time, (see section 21) S
7. Has the Vakalatnama/Memo of appearance/Authorisation been filed. S
8. Is the application maintainability. (U/S 2, 14, 18, or U/R. 8 Etc.,) S
9. Is the application accompanied, duly attested legible copy been filed. S

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD.

I N D E X

O.A.NO. 1476 DP 1997.

CAUSE TITLE S. Subramanyaswara Rao

V E R S U S.

General Manager S.C. Railway, Secunderabad  
and 2 others

SL.NO.	Description of Documents	Page No.
1.	Original Application	1 to 9
2.	Material papers.	10 to 19
3.	Vakalet	1
4.	Objection sheet	-
5.	Spare copies.	3
6.	Covers.	3

Reg: To direct the Respts. to effect the payment of Pension, Gratuity, leave encashment, Commuted Value of Pension etc., and interest at 18%.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL BENCH:AT: HYDERABAD.

एकल सदस्य केस O.A.NO.

1476 /1997

**SINGLE MEMBER CASE**

Between:

S. Subramanyeswara Rao

*Single* A N D

The General Manager  
South Central Railway  
Secunderabad and  
two others.

... Applicant

(1) Retirement Benefits

**RAILWAY**

... Respondents

*Railway*

MATERIAL PAPERS INDEX

S.No.	Date	Material Papers relief upon	Annexure No.	Page No.
1.	4-12-1992	Memorandum Communicating acceptance of Voluntary retirement with effect from 16-10-1991	A1	10
2.	9-12-1993	Letter No.CP/500/QNR/SC/BG directing the Respondent to furnish particulars of the Bank/Post Office.	A2	11
3.	20-3-1995	Representation of the Applicant for payment of Pension Etc.	A3	12 & 13
4.	3-6-1997	Representation of the Applicant for payment of pension Commutation amount etc.	A4	14 & 15
5.	17-12-1984	copy of Supreme Court Judgement reported in AIR 1985 SC Page 356	A5	16 & 17
6.	14-9-1995	Copy of judgement of Punjab and Haryana High Court reported in SLR 1996(1) page 331	A6	18 & 19

HYDERABAD:

DATED: 27-10-1997



*Handwritten signature*  
Counsel for Applicant.

*Handwritten notes:*  
Recd.  
Vh  
ceA/scr  
31-10-97

3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL BENCH :AT: HYDERABAD

O.A.NO. 1476 /1997

Between:

S.Subramanyeswara Rao

. . . Applicant

A N D

The General Manager  
South Central Railway  
Secunderabad,  
and two others.

. . . Respondents

CHRONOLOGICAL STATEMENT OF EVENTS

Sl.No.	Date	Relevancy of the Date	Page No.
1.	16-10-1991	Acceptance of Voluntary retirement of the Applicant with effect from 16-10-1991.	3
2.	4-12-1992	Communication of the acceptance of voluntary retirement with effect from 16-10-1991.	3
3.	9-12-1993	Respondents asking to information regarding Bank at, which Pension can be paid.	3
4.	20-03-1995	Representations.	3
5.	3-06-1997	Submitted by the Applicant for payment of Pension and other retirement dues.	4

HYDERABAD:

DATED: 27-10-1997

*[Signature]*  
Counsel for Applicant.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL BENCH:AT:HYDERABAD

O.A.NO. M76 /1997

Between:

S.Subramanyeswara Rao  
son of S.Ramachandra Rao  
aged 53 years,  
(Retired Chief clerk,  
Div.Mechanical Engineer's Office)  
presently resident at House  
No.21/20,Balajinagar,  
Kukatpalli,Hyderabad - 872.

. . . Applicant

AN D

- 1) General Manager  
South Central Railway  
Railnilyam,  
Secunderabad.
- 2) Divisional Railway Manager  
South Central Railway  
Sanchalan Bhavan  
Secunderabad.
- 3) Senior Divisional Personal Officer  
South Central Railway  
Sanchalan Bhavan  
Secunderabad.

. . . Respondents

1. DETAILS OF APPLICATION:

i) Particulars of the Applicant: Same as given in the Cause title.

a) Name of the Applicant :

b) Address of for Service of all notices

: The address for service of all notices and processes on the above named applicant is that of his counsel Mr.P.P.Vittal, Advocate,Plot No.119,Lalithanagar,Hyderabad - 44.

ii) Particulars of the Respondents: The address of the Respondents for service of all notices, processes etc,are same as stated in the above cause title.



- iii) Particulars of the Order against which this application is made:-

This application is submitted seeking a direction to the General Manager, South Central Railway, Secunderabad to effect payment of Pension, gratuity and other retirement benefits to the applicant as there is no response from the respondents inspite of representations dated 20-3-1995 and 3-6-1997 (Annexure A.3 and A.4)

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter comes under the Jurisdiction of this Hon'ble Tribunal under Section 14(1) of the Administrative Tribunals Act, 1985. In this case, the applicant is seeking direction to the Respondents to pay Pensionary benefits as he retired from Railways Service.

3. LIMITATION :

The applicant further declares that this application is within the limitation period as prescribed in Section 21 of the Administrative Tribunals Act. The applicant further submits that the denial of monthly pension to which he is legally entitled on retirement after ~~pension was~~ putting more than 28 years of service creates a recurring cause of Action.

4. FACTS OF THE CASE:

i) Applicant submit~~s~~ that he joined the Divisional Railway Office at Secunderabad as an office clerk on 6-7-1963 and worked as Senior clerk, Head Clerk and Chief Clerk, during the course of his career of 28 years. In the year 1991, while



working as Chief Clerk, in scale Rs.1600-2660(RSRP) in the office of the Divisional Mechanical Engineer(Diesel) at Kanipet, the Applicant sought voluntary retirement from Railway service. It is submitted that Respondent No.3 through his Memorandum No.CP/VR/Recr/Bills/dated 4-12-1992(Annexure A1) informed the applicant that his voluntary retirement was accepted with effect from 16-10-1991. //

ii) Applicant submits that the Respondent did not take any steps to pay his retirement dues such as pension, gratuity, Provident fund, leave salary etc even after the delayed Communication on 4-12-1992 of the acceptance of his retirement on 16-10-1991.

iii) During December 1993 i.e: after passage of more than two years of the retirement of the applicant Respondent No.3 by his letter No.CP/500/ONR/SC/BG dated 9-12-1993(Annexure A2) directed the applicant to furnish the name of the Bank or Post Office where Pension has to be drawn and Joint Photo-graph of the retiree with his wife. These particulars were furnished by the applicant by February 1995. Further the applicant by his letter dated 20-3-1995(Annexure A3) requested Respondent No.3, to pay his retirement dues including commutation of Pension amount without further delay and credit the same to his Bank account No.51757, Syndicate Bank Divisional Office Compound, Secunderabad. The amounts due and payable by the Railway Administration include:-

- a) Pension from 17-10-1991 //
- b) Amount payable on commutation of 1/3rd Pension //
- c) Provident Fund at the credit of Applicant. //



d) Gratuity for 28 years of service plus 5 years //  
to be added as per Rule 68 of the Railway Services  
(Pension ) Rules.

e) Encashment of leave. //

f) Residuary amount payable under Group Insurance //  
Scheme.

g) Salary for the month of October 1989 and //  
October 1990.

h) Productivity Linked Bonus for the years 1989, 1990 & 1991 //

It is submitted that the applicant submitted

another representation dated 3-6-1997 (Annexure A4\*) to the Respondent No.2 as apart from making several personal representations in the office of Respondent No.'s 2 & 3 requesting for payment of settlement dues, but could not meet with any success either in getting the pension or payment of any other retirement dues mentioned above.

Applicant submits that the respondents have thus wrongfully withheld his pension and other retirement dues since 6 years subjecting the applicant, a retired employee, to untold misery and deprivation of pecuniary benefits and did not care even to give any reply to his representation, dated 20-3-1995 (Annexure A3) and 3-6-1997 (Annexure A4). Applicant therefore submits that he is left with no effective remedy than to invoke the jurisdiction of this Hon'ble Tribunal for redressal of his grievance on the following grounds:-



5. GROUND WITH LEGAL PROVISIONS:

- a) Having accepted the voluntary retirement of the Applicant with effect from 16-10-1991 and communicated the sanction by Memorandum No.CP/VA/Recr/Bills/92 dated 4-12-1992(Annexure A \ ) ,the respondents ought to have processed the fixation of Pension and its payment promptly as any delay would affect adversely the sustenance and survival of the Applicant,who is a retired employee<sup>of</sup> more than 28 years of Service.
- b) The denial of payment of pension gratuity and other settlement amounts for more than six years is patently illegal and is also opposed to principles of natural justice.
- c) Applicant submits that if there was some difficulty to verify the records and fix the pension of the Applicant ,the Respondents ought to have paid atleast Provisional Pension and gratuity which is mandatory under Rule 91 of Railway Services(Pension) Rules,to enable the Applicant to sustain himself.
- d) Applicant submits that with-holding of Pensionary benefits such as provident fund leave encashment salary,gratuity etc for more than six years by the Respondents is wrongful and without any authority and the respondents are liable to pay interest at Commercial rate on those amounts. Rule 87 of the Railway Services (Pension ) Rules,1993 makes it mandatory on the part of the Administration to pay interest for with-holding gratuity etc for more than three months.

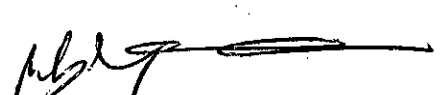


e) The Hon'ble Supreme Court in D.S. Nakara and another Vs Union of India (reported in A I R 1983 Sc 130) observed:-

" From the discussion three things emerge: (i) that pension is neither a bounty nor a matter of grace depending upon the sweet will of the employer and that it created a vested right subject to 1972 Rules which are statutory in character because they are enacted in exercise of powers conferred by the proviso to Article 309 and Clause (5) of Article 148 of the Constitution, (ii) that the pension is not an ex gratia payment but it is a payment for the past service rendered; and (iii) it is a social welfare measure rendering socio-economic justice to those who in the hey day of their life ceaselessly toiled for the employer on an assurance that in their old age they would not be left in lurch. It must also be noticed that the quantum of pension is a certain percentage correlated to the average emoluments drawn during last three years of service reduced to ten months under liberalised pension scheme. Its payment is dependent upon an additional condition of impeccable behaviour even subsequent to retirement, that is, since the cessation of the contract of service and that it can be reduced or withdrawn as a disciplinary measure."

f) In state of Kerala Vs Padmanabh Nair (reported in AIR 1985 SC 356) (Annexure A 5) the Apex Court held.

" Pension and gratuity are no longer any bounty to be distributed, by the Government to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment."



g) The High Court of Punjab in Basant Singh Vs State of Punjab reported in S L R 1996 (1) page 331 (Annexure A -6-) held that withholding of retirement dues (Pension gratuity) amounts to unlawful deprivation of the ~~right~~ ~~of-property~~ Constitutional right of Property.

h) In view of the settled legal position as submitted in paras e, f and g Supra the Applicant submits that the Respondents are ~~not~~ liable to pay all the retirement dues (Pension, gratuity, leave salary etc) immediately together with interest at 18% percent from the date of his retirement.)

6. REMEDIES EXHAUSTED:

The Applicant hereby declares that in the circumstances and facts stated supra, the Applicant has no effective remedy except to invoke the jurisdiction of this Hon'ble Tribunal seeking appropriate redressal and relief of his grievance which affects his day to day sustenance and survival.

7. MATTERS NOT FILED NOR PENDINGS:

The Applicant further declares that he has not filed any Writ, suit or Application before this Hon'ble Tribunal or any other Bench of this Tribunal or any other Court or any authority claiming the same relief prayed for in this application.



8. MAIN RELIEF:

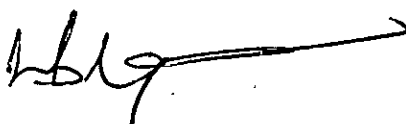
In view of the facts and the legal position submitted in paras 4 and 5 above, the Applicant prays that this Hon'ble Tribunal may be pleased to direct the Respondents

- a) To effect immediate payment of pension, gratuity leave encashment salary, Commuted value of Pension Provident Fund and all other amounts mentioned in para 4 above.
- b) To pay interest on all the above amounts at 18 percent from the date of retirement till the date of payment.

and pass such order or orders as this Hon'ble Tribunal may deem fit and ~~proper~~ necessary in the interest of Justice.

9. INTERIM RELIEF:

Applicant submits that though he had retired on 16-10-1991, after serving sincerely for more than 28 years the Respondents wrongfully withheld all his retirement benefits including his own provident Fund for Six years driving Applicant to untold misery and caused deprivation of basic material comforts. Applicant, therefore, prays this Hon'ble Tribunal may be pleased to direct the respondents to pay the pension, Gratuity, Provident fund, leave salary, Provisionally, within Two Weeks to the Applicant pending further verification,





Certification of the amounts and the interest payable thereon and pass such other order or orders as this Hon'ble Tribunal may deem fit and proper in the interest of Justice and the circumstances of the Case.

10. PARTICULARS OF POSTAL ORDER:

a) Name of Post Office

: 812690920  
VLC-A Post Office SOI

b) Number of Postal Order/Date :

31-10-97 4 po HYD

1 ls. SOI-A  
L.P.O./B.O./D.O./Remove

11. DETAILS OF ANNEXURES: Annexure relied upon are enclosed.

12. LIST OF ENCLOSURES :

- a) Material Papers Booklet, b) Postal Order  
c) Vakalatnama d) Covers.

VERIFICATION

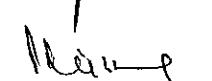
b I, S. Subramanyeswara Rao, S/o S. Ramachandra Rao aged 53 years, Occ: Retired Chief Clerk, Divisional Mechanical Engineer's Office do hereby declare that the contents in paras 1 to 12 above are true, correct to the best of my knowledge and legal information furnished. Hence

Hence Verified on this 27<sup>th</sup> Day of October 1997 at Hyderabad

DATED: 27-10-1997

PLACE: HYDERABAD.

  
SIGNATURE OF THE APPLICANT

  
Counsel for Applicant.

S.C. RAILWAY.

Office of the  
Divisional Railway Manager(P)/BG,  
Secunderabad.

No. CP/VR/Recr/Bills/92.

Date: 11-12-1992.

MEMORANDUM

The voluntary retirement of Sri S. Subrahmanyaswara Rao,  
Chief Clerk (VR) (NB) in Scale Rs. 1600-2660 (RSRP) Sr. DME/~~BSL~~  
~~BSL~~/KZJ ~~has been accepted with effect from 16-10-91.~~

This has the approval of the competent authority.

for LRM(P)/BG/SC.

Copy to: Sr. DME/BSL/KZJ, Sr. DAO/SC.

" S.L.N.I./SC

" Party,

" OS(Settlement), OS(Bills)

for LRM(P)/BG/SC.

PR Booked  
on 14/12/92

14/12.

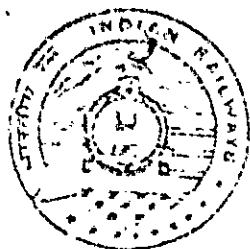
The copy  
M. L.  
Advocate.

(17)

(11)

Annexure A 14

By. 11.4. 2017 7 ACK Due



Printed at Sec. R. P.

St. 20, 2017  
G. I. 2017

DIVISIONAL RAILWAY MANAGER(P) Sanchalan Bhavan, 5th Floor, Office  
Secunderabad - 500 371.  
(INDIA)

South Central Railway

No. CP/500/ONP/SC (BG)

Date: 9-12-1992.

Sri S. SUBRAMANYESWARA PAO,  
(Retired Chief Clerk)  
2-6-LEADE AVE,  
APT 5-C,  
PASADENA,  
CA 91105,  
UNITED STATES OF AMERICA.

Sub: Pension papers to be executed for  
settling of the case.

On scrutiny of pension papers submitted by  
you, the following observations were noticed.

- 1) You have not mentioned the name of the  
Bank or Post office from where pension  
has to be drawn.
- 2) Further, you have not submitted the  
Joint P-photograph along with your wife.

In view of the above circumstances,  
please advise this office, whether you want  
to attend the above points when you come India  
or the pension set is again to send to you for  
resubmission duly attending the above points.

In order to process your settlement case  
an early reply is required please.

for DIVL. PLY. MANAGER(P)/BG,  
SECUNDERABAD.

The City  
Advocate

M.H.C.H. 20. 19. 5

Additional Dy Manager, (Sr)  
S.C. RLY; Secunderabad - 571.

Sub: Pending settlement cases of S. Subramanyaswami Rao, C.E. (Mech) R.S.R. voluntarily.

Sir,

I beg to report that on my recent visit to India to settle my pension account, I was given to understand that I need to undergo medical test for commutation of 1/3rd of gratuity and pension.

Sir, in this context, I would like to point out that the request for my voluntary retirement has been accepted by you with effect from 16/9/91 but this fact was informed by your office only on 4/4/92, by post to me. This has resulted in undue delay of more than one year. The rules stipulate that medical test is mandatory only when the settlement of an employee is pending for more than a year. In my case, although it is pending for more than a year, I am not to blame for the delay. Had your office informed me of the fact that my application was accepted w.e.f. 16/9/91; in time; say, before 16/9/92, I would have visited your office before the expiry of one year and so, the medical test would not have been essential at that time. Hence, as the delay is attributable to administrative lapse, I stand to gain the benefit of commutation of pension without a medical test.

As such, I sincerely pray your goodself to take a lenient view and exempt the Medical test and a special case and allow commutation of pension in my favour at an early date.

Sir, it is not out of context to mention that despite my daily visits to your office from 12/2 to 16/3/95, I couldn't receive my settlement due on one plea or the other. It is also picking to note that the following items are still pending to be cleared by Accounts branch:—

- ① Retraction of my pay w.e. from Sept '85, merging Spl. pay drawn by clerks into basic pay, and arrears are yet to be paid to me.
- ② P.L. Bonus for the years '88-'89; '89-'90 and '90-'91 are yet to be paid to me.
- ③ D.A. Arrears from July '89 to Nov '89 are yet to be paid to me.
- ④ Salary for the month of October '89 & October '90 which was to be credited to my S.B. Account was not done and so, the amounts are yet to be paid to me.

Under the circumstances, I request you to kindly hasten the process and arrange to credit my settlement amounts to my Bank A/c 51757 at Syndicate Bank, Civil Office, Compound very early, under advice to me at the address beneath:

2-E. MEADE AVE.

PAS.SAIC

NF-07055

Yours faithfully,

Lbly

(S. Subramanyaswara Rao)  
Chief clerk (Retd) Mech.

True copy

Md-L

Advocate

TUNB 03 '97.

Genl Rly Manager,  
P.C.Rly, Secunderabad - 371.

Sub: Pending settlement case of S. Subram  
anyaswaraiah; C.C(M) retired on 16/10/91.

Sir,

With due respect I would like  
to draw your personal attention to my  
letter dated March 20 1995 sent to you by Regd  
post and to which I did not receive any  
response so far from the personnel branch.

It is distressing to point out  
that even after a lapse of 2 years, your office  
is not finding it fit to resolve the issue  
and settle my account. At this stage I suffer  
unavoidable glitch in my settlement  
case kindly let me know immediately  
so that I can take necessary steps to  
quicken the process.

Consequently, I would draw your  
attention to the following facts to be kept  
in mind while closing my settlement:

1. Fixation of pay had to be done w.e.f. Sept 88  
merging 35 Rs. BPL pay drawn by a Sr clerk and  
 arrears had to be paid to me.
2. P.L. Bonus for 88-89 and years 89-90 are yet  
to be paid to me. 90-91
3. D.A. increase arrears from July '89 to Nov '89  
were not drawn and paid.
4. H.H.A.P. salary was paid during the period.

of my leave, but pay for the months of Oct '99 and October '90 were not credited to my S.S. account and was credited to unpaid account and so, the salary for those 2 months need to be redrawn and paid.

As undue delay would complicate the process and make it much harder to close the case at a later date, I would urge you to kindly hasten the process and arrange to settle my account forthwith and also to advise me the present state of my case to the address given underneath.

Thanking you in anticipation,

Yours faithfully,

Hdy

(S. Subramanyeswararao)

Chief clerk (Retd) Mech.

117 ALBION ST.

P.A.S.S.A.C.

NS-07055.

USA.

True copy

Recd

Advocate

356 S. C.

State of Kerala v. M. Padmanabhan Nair

increase under S. 7 and such increased rent would be the standard rent of the premises as a whole and within the upper limit fixed by such standard rent, the assessing authorities would have to determine the rent which the owner may reasonably expect to get if the premises as a whole are let out as a single unit to a hypothetical tenant and in such a case, the actual rent received would be a fair measure of the rent which the owner may reasonably expect to receive from such hypothetical tenant unless it is influenced by extra-commercial considerations. Lastly, the addition may be of a distinct and separate unit of occupation and in such a case, the rateable value of the premises would have to be determined on the basis of the formula laid down by us for assessing the rateable value of premises which are partly self-occupied and partly tenanted. The same principles for determining rateable value would obviously apply in case of subsequent additions to the existing premises. The basic point to be noted in all these cases is — and this is what we have already emphasised earlier — that the formula set out in sub-ss. (1)(A)(2)(b) and (1)(B)(2)(b) of S. 6 cannot be applied for determining the standard rent of an addition, as if that addition was the only structure standing on the land. The assessing authorities cannot determine the standard rent of the additional structure by taking the reasonable cost of construction of the additional structure and adding to it the market price of the land and applying the statutory percentage of 7½ to the aggregate amount. The market price of the land cannot be added twice over, once while determining the standard rent of the original structure and again while determining the standard rent of the additional structure. Once the addition is made, the formula set out in sub-ss. (1)(A)(2)(b) and (1)(B)(2)(b) of S. 6 can be applied only in relation to the premises as a whole and where the additional structure consists of a distinct and separate unit of occupation, the standard rent would have to be apportioned in the manner indicated by us in the earlier part of this Judgment.

20. These are the principles on which the rateable value of different categories of properties is liable to be assessed under the Delhi Municipal Corporation Act 1957. The same principles would a fortiori apply also in relation to assessment of rateable value under the Punjab Municipal Act 1911. Since there

are a number of writ petitions and appeals before us and they involve different situations we do not think it would be convenient to dispose of them of finally by a single Judgment. We would therefore direct that these writ petitions and appeals shall be placed on Box ' on some convenient date so that they can be disposed of in the light of the principles laid down in this Judgment.

Order accordingly.

AIR 1985 SUPRE.

COURT 356

(From: 1984, Ker. 42)

V. D. TULZAPURKA  
V. BALAKRISHNA ER.

Spl. Leave Petn. (Civil) No. 942  
Dt. 17-12-1984.

State of Kerala and others, Petitioners  
M. Padmanabhan Nair, Respondent

Constitution of India, Arts. 311, 300A

Retirement dues — Delay in payment

Liability of Govt. to pay interest at market

rate — Commences from expiry of two months

from date of retirement — Govt. employees

Delayed payment of retirement dues due to

non-production of last pay certificate by retiree

— Suit for interest — Non production of

certificate held, was due to lapse of issuing

authority — Govt. liable to pay interest

(Treasury Code (Bom), R. 186 — Payment of

Gratuity Act (1972), S. 4)

Pension and gratuity are no longer bounty

to be distributed by the Government but a

valuable rights and property in their hands

and any culpable delay in settlement and

disbursement thereof must be visited with the

penalty of payment of interest at the current

market rate till actual payment. The liability

to pay penal interest on these dues at the

current market rate commences at the expiry

of two months from the date of retirement.

(Paras 12-14)

The claim for interest made by the Govt.

servant who was paid his pension and gratuity

more than two years and three months after

his retirement due to non-production of Last

Pay Certificate by the retiree, it was held, was

rightly granted as the delay was due to lapse

on the part of the Treasury Officer enjoined

to issue the certificate under R. 186 of Treasury

Code (Bom).

(Paras 15-17)

AC/AC/A172/85/VVG



1985

Goa Sampling Employees' Assocn. v. G. S. Co. of India Pvt. Ltd.

S. C. 357

The Supreme Court was inclined to grant 12% interest to the retired employee but did not do so as the employee had acquiesced in his claim being decreed at six per cent.

(Para 4)

Mr. P. K. Pillai, Advocate, for Petitioners.

**JUDGMENT :—** Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment.

Usually the delay occurs by reason of non-production of the L.P.C. (Last Pay Certificate) and the N.L.C. (No Liability Certificate) from the concerned Departments but both these documents pertain to matters, records whereof would be with the concerned Government Departments. Since the date of retirement of every Government servant is very much known in advance we fail to appreciate why the process of collecting the requisite information and issuance of these two documents should not be completed at least a week before the date of retirement so that the payment of gratuity amount could be made to the Government servant on the date he retires or on the following day and pension on the expiry of the following month. The necessity for prompt payment of the retirement dues to a Government servant immediately after his retirement cannot be over emphasised and it would not be unreasonable to direct that the liability to pay penal interest on these dues at the current market rate should commence at the expiry of two months from the date of retirement.

The instant case is a glaring instance of culpable delay in the settlement of pension and gratuity claims due to the respondent who retired on 19-5-1973. His pension and gratuity were ultimately paid to him on 14-8-1975, i.e., more than two years and 3 months after his retirement and hence after serving lawyer's notice he filed a suit mainly to recover interest by way of liquidated damages for delayed payment. The appellants put the blame on the respondent for delayed payment on the ground that he had not produced the requisite L.P.C. (Last Pay Certificate) from

the Treasury Officer under Rule 185 of the Treasury Code. But on a plain reading of Rule 186, the High Court held and in our view rightly that a duty was cast on the Treasury Officer to grant to every retiring Government servant the last pay certificate which in this case had been delayed by the concerned officer for which neither any justification nor explanation had been given. The claim for interest was, therefore, rightly, decreed in respondent's favour.

4. Unfortunately such claim for interest that was allowed in respondent's favour by the District Court and confirmed by the High Court was at the rate of 6 per cent per annum though interest at 12 per cent had been claimed by the respondent in his suit. However, since the respondent acquiesced in his claim being decreed at 6 per cent by not preferring any cross objections in the High Court it would not be proper for us to enhance the rate to 12 per cent per annum which we were otherwise inclined to grant.

5. We are also of the view that the State Government is being rightly saddled with a liability for the culpable neglect in the discharge of his duty by the District Treasury Officer who delayed the issuance of the L.P.C. but since the concerned officer had not been impleaded as a party defendant to the suit the Court is unable to hold him liable for the decretal amount. It will, however, be for the State Government to consider whether the erring official should or should not be directed to compensate the Government the loss sustained by it by his culpable lapses. Such action if taken would help generate in the officials of the State Government a sense of duty towards the Government under whom they serve as also a sense of accountability to members of the public.

Order accordingly.

**AIR 1985 SUPREME COURT 357**

(From : 1984 Lab IC 1626 (Bom))

**D. A. DESAI AND  
AMARENDRA NATH SEN, JJ.**

Civil Appeal Nos 4904-4908 of 1984, D/-  
11-12-1984.

Goa Sampling Employees' Association,  
Appellant v. General Superintendence Co. of  
India Pvt. Ltd. and others, Respondents

AC/AC/A373/85/VNP

The copy  
M. V.  
Advocate

making reference to the order dated January, 15, 1984 passed by the Government of Haryana, the petitioner has stated that S/Shri K.R. Chopra, S.K. Sodhi, J.P. Gupta and Hans Raj Allahawadi were promoted against the year 1980 and one post was kept reserved for him at Sr. No. 4. He has also made a reference to the order passed by this Court on 3.10.1983 in CWP No. 5630 of 1981 filed by J.P. Gupta who too had passed AMIE examination in the year 1979 and had become eligible for promotion against 10 per cent quota. That petition was decided by the High Court with a direction that the candidature of J.P. Gupta should be considered against the posts which became available after 1.1.1980. The petitioner says that although he had made several representations to the Government for his promotion to the post of Sub Divisional Officer but his request was not accepted. The petitioner has then made a reference to the various writ petitions filed in the High Court as well as in the Supreme Court and the Special Leave Petitions filed in the Apex Court and has pleaded that in the revised ranking list issued in the year 1992 also his name has altogether been excluded and persons junior to him have been allowed to occupy the post of the Sub Divisional Officer.

3. In the reply filed on behalf of respondent No. 2, it has been stated that the petitioner passed AMIE examination on 3.3.1980 and not in the year 1979 and, therefore, he has no right to claim promotion along with J.P. Gupta and others. Even regarding J.P. Gupta, it has been stated that he passed AMIE examination in the year 1980 and was promoted against the promotion quota of the year 1981. According to respondent No. 2, the petitioner was not eligible to be considered for promotion against the quota of the year 1980 and, therefore, he cannot make a grievance that his candidature has been ignored at the time of promotions in the year 1980.

4. Though learned counsel for the petitioner argued that the declaration of the result of the petitioner's examination of AMIE would relate back to the year in which he appeared in the examination and he will be deemed to have passed the examination in the year 1979 and he has referred to the provisions contained in the P.W.D. Manual, in my opinion, it is just and proper to direct the respondents to consider the case of the petitioner for promotion in view of the order dated 17.8.1995 passed by this Court in CWP No. 3219 of 1993 (Sarwan Kumar Munjal v. State of Haryana and another) and three other writ petitions. In that case, the Court has examined the grievance of the petitioners who were given regular promotion vide order dated 15.1.1984 and whose names have been excluded from the ranking list prepared on 30.11.1992. Since the Government is duty bound to examine the cases of those petitioners in the light of the direction given by this Court, it will be appropriate to direct that claim of the petitioner for promotion to the post of Sub Divisional Officer be also considered by the Government in the light of that decision and necessary decision be taken regarding the promotion of the petitioner within a period of four months from the date of submission of a copy of this order. If the respondents come to the conclusion that the petitioner does not have a right to be promoted at par with S/Shri K.R. Chopra, S.K. Sodhi, J.P. Gupta and Hans Raj Allahawadi, a reasoned order be passed and communicated to the petitioner within the aforesaid period of four months.

5. The writ petition stands disposed of with the aforesaid directions.

6. Parties are left to bear their own costs.

Order accordingly.

PUNJAB AND HARYANA HIGH COURT

Before:- G.S Singhvi, J.

C.W.P. No. 5868 of 1986 / Decided on 14.9.1995

Basant Singh

Petitioner

Versus

The State of Punjab and others

Respondents

For the Petitioner : Mr. P.S. Goraya, Advocate.  
For the Respondents : Mrs. Charu Tuli, Assistant Advocate General, Punjab.

**Constitution of India, Article 226 and 300-A--Pension/Interest--Department Unlawfully deprived the petitioner of his constitutional right to receive pension--Interest at the rate of 15 per cent per annum awarded. (Paras 3 and 4)**

**Case referred :**  
State of Kerala v. N. Padmanabhan, 1985(1) SLR 750 (SC).

#### JUDGMENT

**G.S. Singhi, J.**—After having served the Government for 32 years between 15.11.1944 and 30.11.1976, the petitioner has retired from service while holding the post of Zileadar. He patiently waited for one decade for settlement of his retirement dues and ultimately approached this Court through this petition filed on 27.10.1986. After about 10 months of the issue of notice, a Division Bench of this Court admitted the writ petition and directed its hearing within 6 months. This period of 6 months has virtually been converted into 96 months. From the record, it does not appear that any effort was made by the counsel for the parties for reminding the Court that the matter deserves to be heard at the earliest. This is how the petitioner has suffered firstly at the hands of the Government and then due to tardy process and long waiting period in the Court. All this has been incorporated in order to emphasise the necessity of Bar and Bench realising their duty towards the people of expedient decision of the cases. After retirement on 30.11.1976, the petitioner pursued various departmental authorities by personal visits and by representations/legal notice but he failed in his attempt to elicit any positive response.

2. After the service of notice of the writ petition, the respondents came out with the plea that pension payment order had been issued in favour of the petitioner on 10.3.1987 and gratuity amount of Rs. 2613/- has been paid to him on 19.5.1987. They have also stated that G.P.F. amount was paid to him as early as in 1977. Regarding commutation of pension, the respondents have stated that the petitioner did not make any proper application for commutation of pension.

3. From the what has been stated above, it is evident that after more than one decade of his retirement, the respondents released the post-retirement dues to the petitioner except the G.P.F. which was paid after two months of his retirement. Delay in the payment of pension and gratuity has not at all be explained and, therefore, it has to be held that the respondents unlawfully deprived of the petitioner of his constitutional right of property. For this he deserves to be compensated by award of interest.

4. Keeping in view the decision of the Supreme Court in State of Kerala v. N. Padanabhan Nayyar, AIR 1985 SC 359 : [1985(1) SLR 750 (SC)], and a host of decisions of this Court, I deem it just and proper to award interest at the rate of 15 per cent per annum to the petitioner.

5. Consequently, the writ petition is allowed. The respondents are directed to pay arrears of pension due to the petitioner for the period 1.12.1976 to 10.3.1987 along with interest at the rate of 15 per cent per annum calculated from 1.12.1976 within two months of the submission of certified copy of this order. Respondents are also directed to pay interest at the rate of 15 per cent per annum on the amount of gratuity between 1.12.1976 and the date of payment, i.e. 19.5.1987. This payment should also be made to the petitioner within two months of the submission of certified copy of this and for being compelled to file the present writ petition, the petitioner shall be paid costs amounting to Rs. 3,000/- (rupees three thousand).

**Petition allowed.**

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M. L. S.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH

O.A.1476/97

Date of decision: 17-11-1997

Between:

S. Subramanyeswara Rao

.. Applicant

- AND -

1. General Manager,  
South Central Railway,  
Railnilayam,  
Secunderabad.

2. Divisional Railway Manager,  
South Central Railway,  
Sanchalan Bhavan,  
Secunderabad.

3. Senior Divisional Personal Officer,  
South Central Railway,  
Sanchalan Bhavan,  
Secunderabad.

.. Respondents

Counsel for the applicant : Mr. P.P. Vittal<sup>h</sup>

Counsel for the respondents : Mr. K. Siva Reddy

Coram:

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

J U D G E M E N T

Heard Mr. P.P. Vittal<sup>h</sup> for the applicant  
and Mr. K. Siva Reddy for the respondents.

2. The applicant proceeded on voluntary retirement in October, 1991. According to him it was a routine (voluntary) retirement and no case or claim of any kind is pending against him. His terminal benefits have, nevertheless, been delayed for more than 6 years. The applicant resides abroad and visits this station only once in a while. His anxiety is, therefore, quite understandable.

3. There are no legal issues or principles involved in this case. The question is merely of releasing the amounts which are due to the retired official. For some reason, this process seems to have suffered unexplained delays. It is not known what these delays are due to and whether the applicant himself was in any way responsible for these.

4. Be that as it may, it would be adequate and fair to direct Respondent No.2, i.e., DRM Secunderabad Division, to look into the case, with particular reference to applicant's representation dated 3-6-1997. The claims need to be processed very expeditiously, to ~~facilitate~~ facilitate which a copy of the OA will be sent to the DRM.

Q.  
17/11

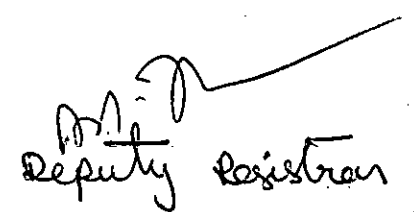
so as to enable him to have the details scrutinised urgently. All payments due to the applicant shall be got released within 45 days from today. It will be better if it can be examined <sup>whether</sup> any items of payments, which do not involve elaborate calculations or dispute of any type, e.g., Provident Fund and Encashment of leave, etc., are got released within three weeks where possible. In any case, all claims shall have to be settled within the time indicated above.

5. The question of payment of interest, if any, and if justified, is left open depending on the facts of the case that may come to light eventually. The applicant is free to represent to the respondents for payment of any legitimate interest at the prescribed rates on the delayed amounts. He is also free to agitate his grievance, if any, on this score in future. Thus the OA is disposed of at admission stage.

6. CC by tomorrow.

MD

  
(H. Rajendra Prasad)  
Member (A)

  
Deputy Registrar

21/11/97

I Court.

TYPED BY:

CHECKED BY:

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:-

17/11/97

~~ORDER~~ JUDGMENT.

M.A.,/RA.,/C-A.No..

in

O.A.No.

1476/97

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.

