

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD.

O.A. No.488/99.

DATE OF ORDER : 23-9-1999.

BETWEEN :

G. Narasimha Reddy,
Son of G. Narayana Reddy,
aged about 64 years,
Permanent Way Inspector(Retd.)
South Central Railway,
Guntakal Division,
R/o 2-44, N.S.Nagar,
Near Arts & Science College,
Adoni, Kurnool District.

.. APPLICANT

(By Advocate Mr.S.Ramakrishna Rao)

A N D

1. The General Manager,
South Central Railway,
Rail Nilayam, Secunderabad.
2. Chief Personnel Officer,
South Central Railway,
Rail Nilayam, Secunderabad.
3. Financial Advisor 1 & Chief Accounts Officer,
South Central Railway,
Rail Nilayam, Secunderabad.
4. Divisional Railway Manager,
South Central Railway ,
Guntakal Division,
Guntakal.
5. Senior Divisional Accounts Officer,
South Central Railway,
Guntakal Division,
Guntakal. .. RESPONDENTS

(By Standing Counsel Mr. Shiva Reddy)

CORAM :

THE HONOURABLE MR. JUSTICE D. H. NASIR, VICE-CHAIRMAN.

O R D E R .

Justice D.H. Nasir, VC:

1. The only point arising for our consideration in this O.A. is whether the applicant is entitled to be awarded interest at the rate of 24% per annum on account of delay in making payment of retiral benefits to him. On an earlier occasion when the applicant filed O.A.No.1040/97 on 23.7.1997 on the same subject, it was disposed of by an order dated 23.10.1997 by making observations as stated in para-7 thereof that a charge sheet dated 27.6.1991 issued to the applicant was handed over to the Senior Clerk in charge through a special messenger but the applicant denied receipt of the charge sheet before his retirement on 30.6.1991. But the reply statement is silent in regard to the issue of charge sheet to the applicant before his retirement. No proof had been produced to show that the applicant received the charge sheet before his retirement and therefore, the Tribunal came to the conclusion that the charge sheet was not served upon the applicant before his superannuation. Subsequently, however, the Department made payments of retiral benefits to the applicant in three instalments. The first instalment of Rs.68,852/- was paid on 14.11.1998 towards Gratuity and leave salary; the second payment of Rs.1,31,451/- was made on 3.8.1998 towards Pension Relief and the third payment of Rs.8,313/- was made on 18.2.1999 towards difference of Pension Relief. We need not examine the causes which compelled the respondents to make such payments on different dates. But owing to the fact that no satisfactory reasons were cited by the respondents for withholding such payments which were required to be made to the applicant soon after his superannuation on 30.6.1991, it was incumbent upon this

Bench to allow interest on delayed payments ^{in the absence of} ~~without~~ showing sufficient cause for delay.

2. The learned Standing Counsel Mr. Shiva Reddy made a submission that in the earlier proceeding taken by the applicant, he had asked for payment of interest at 24% per annum. However, no order in that regard was passed when the OA was disposed of with certain directions to the respondents and therefore, according to him, the claim of interest advanced by the applicant was barred by res judicata.

3. The learned counsel Mr. S. Ramakrishna Rao for the applicant drew my attention to Rule 87 of the Railway Servants Pension Rules, 1993 in which it is provided that 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 lapses, 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 part of Government servant to comply with the procedure laid down in that chapter.

4. In the case before us though an attempt was made to show that the delay took place on account of the fact that the applicant was facing charges of defalcation, no charge sheet in that regard was served upon even the applicant either before his retirement or after his retirement and in fact, no disciplinary proceedings were initiated against him at any point of time either before retirement or after retirement and therefore, we believe that the interest claimed by the applicant cannot lawfully be denied to him.

5. The Supreme Court in DR. UMA AGRAWAL v. STATE OF U.P. AND ANOTHER (1999 SCC (L&S) 742) held that pension was not a bounty but right of a ~~Govt Servant~~—and the Government was obliged to follow rules. Delay in settling retiral benefits is frustrating and must be avoided at all costs. The Supreme Court therefore held that in cases where a retired Government servant claims interest for delayed payment, the Court can certainly keep in mind time-schedule prescribed in the rules/instructions, apart from other relevant factors applicable to a case.

6. The Principal Bench of this Tribunal also in MAHESH KUMAR SHARMA v. GENERAL MANAGER(COMPLAINTS) NORTHERN RAILWAY AND ANOTHER (1998(3) AISLJ (CAT) 381) held as follows :

"8. After going through all the facts and circumstances of the case, I am satisfied that the action of the respondents in withholding the gratuity is not in accordance with law. First, admittedly no disciplinary proceedings have been initiated. There was no finding of misconduct or grave misconduct. Secondly, the entire concept of adjustment of gratuity is based on two or three premises. The first premise is that the enquiry about the loss caused either by negligence or by fraud by the railway servant must be initiated during his service. Rule 15 does not envisage a situation where much after the Government servant retires an enquiry starts and continues on and on and until the said enquiry is concluded, the gratuity is withheld. . ."

The above decision of the Principal Bench of this Tribunal squarely applies to the facts of the case before us. The facts in both the cases are similar and therefore, there is no reason why the advantage of the decision of the Principal Bench should not be extended to the present applicant.

7. The contention raised by the learned Standing Counsel Mr. Shiva Reddy that the question of payment of interest was barred by res judicata although could not be overlooked, ^{but} we still believe that the claim of interest cannot be denied to the applicant firstly on account of

(X)

the fact that the claim of interest in the earlier proceeding was not adjudicated and decided on merits and secondly because, the respondents manifested a weavering mind whether to issue charge sheet or not and eventually the charge sheet was not issued to the applicant at all and therefore, from the point of view of the applicant, the delay was totally unjustifiable and was based on no reasonable ground for withholding the retiral benefits.

8. In that view of the matter, therefore, I am not inclined to make any departure from the law laid down by the Supreme Court and followed by the Principal Bench of this Tribunal in the decisions referred to above.

9. The next question, therefore, which arises for consideration is the rate at which interest could be allowed. According to the learned counsel Mr. Ramakrishna Rao for the applicant, the interest should not be less than 24% per annum having regard to the fact that the Department had not succeeded in establishing that any sufficient cause existed which justified the delay and therefore, according to Mr. Ramakrishna Rao, the act of withholding the payment was in gross violation of law and principles of natural justice. A strict view is, therefore, required to be taken with regard to the delay committed by the respondents in releasing payment of retiral benefits. However, the inaction on the part of the respondents is not such which could be condemned with any such stigma. The respondents were perhaps labouring under the feeling as to whether any suficient material was available on record to establish the allegations made against the applicant which resulted in hesitation on part of the respondents to initiate disciplinary proceedings. The applicant, therefore, cannot be treated on par with a public servant who retired with clean hands and with all virtues in tact. In that view of the matter, therefore, we believe that rate

of interest at 12% per annum would meet the ends of justice.

10. The Supreme Court in Ex.CAPT.R.S. DHULL v. STATE OF HARYANA AND OTHERS (1998 SCC(L&S) 1143) held that the respondent-State was not justified in withholding ~~that~~ the General Provident Fund, Gratuity and other retiral benefits and therefore, allowed interest at the rate of 12% per annum on the withheld amounts from the dates of such amounts becoming payable on the appellant's superannuation.

11. Hence, this O.A. is disposed of with a direction to the respondents to pay interest at the rate of 12% per annum after expiry of two months from the date of superannuation till the actual payment was made to the applicant. This direction should be complied with within two months from the date of receipt of a copy of this order.

12. The O.A. is allowed accordingly. No costs.

केस नंबर	2A/488/99
CASE NUMBER	2A/488/99
नियन्त्र का तारीख	23-9-99
Date of Judgement	23-9-99
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Section 10 (2) (b)	