

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.83/95

Date of order: 12/11/99

1. M.L.Choudhary, S/o Shri Kalu Ramji Chaudhary, R/o 38, Keshavnagar, Civil Lines, Jaipur, last employed on the post of Asstt.Mech. Engineer, Western Railway, Jaipur.
2. Shri Ram Sevak Sharma, S/o Shri Mishri Lal Sharma, R/o 94/161, Agrawal Farm, Mansarovar, Jaipur, last employed on the post of Chief Loco Inspector, Jaipur, Western Railway.
3. Tota Ram Yadav, S/o Shri Khachroo Singh Yadav, R/o Vill.Singhavli, Aheer, P.O.Singhavali Aheer, Distt.Meerut (UP), last employed on the post of Junior Fuel Inspector, Bandikui, Western Railway, Distt.Dausa.

...Applicants.

Vs.

1. Union of India through General Manager, Western Railway, Churchgate, Bombay.
2. Divisional Railway Manager, Western Railway, Jaipur Division, Jaipur.
3. Chairman, Railway Board, Rail Bhawan, New Delhi.

...Respondents.

Mr.Shiv Kumar - Counsel for applicants.

Mr.U.D.Sharma - Counsel for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.N.P.Nawani, Administrative Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1985, the applicants make a prayer:

- (i) to declare the circular dated 25.11.92 as illegal and unconstitutional to the extent it relates to the date of its effect from 1.1.1993;
- (ii) to direct the respondents to make it effective from the date of meeting, i.e. December 1989;
- (iii) direction to the respondents to pay the interest at market rate on the delayed payment on retiral benefits; and
- (iv) Cost of the application.

2. The case of the applicants is that a decision to fix the pensionary benefits by adding 30% of basic pay was taken in December 1989 but the same was effective w.e.f. 1.1.93 which is unconstitutional and arbitrary, therefore the circular dated 25.11.92 is liable to be struck down to the extent it relates to be effective w.e.f. 1.1.93. It is stated that the applicants received pensionary benefits late by 3 years, therefore, the applicants are also entitled to interest on the delayed payment.

2. Reply was filed. It is stated in the reply that the impugned circular was made effective w.e.f. 1.1.93 whereas the applicants were

retired in the year 1991 therefore, they are not entitled to the benefits extended vide circular dated 25.11.92. It is further stated that the delay in paying retiral benefit was administrative in nature, which was not wilful. Therefore, the Contempt Petition was also dismissed vide order dated 3.10.94 and there was no direction in the order dated 15.7.93 in O.A No.122/91 to pay interest on the amount withheld. Therefore, the applicants are not entitled to any interest on delayed payment of retiral benefits. It is further stated that the matter was only raised by the recognised Labour Federation in the Departmental Council Meeting on 19/20.12.89 and no decision was taken in the matter. The decision to this effect was taken subsequently by the Ministry of Railways in consultation with the Labour Federation and instructions were issued vide letter dated 25.11.92 making it effective from 1.1.93. Therefore fixing the cut off date as aforesaid was perfectly proper and legal and this O.A is devoid of any merit, which is liable to be dismissed.

4. Rejoinder was also filed which is on record.

5. Heard the learned counsel for the parties and also perused the whole record.

6. The learned counsel for the applicants has submitted that the cut off date making the circular dated 25.11.92 effective from 1.1.93 is arbitrary, illegal and unconstitutional which is liable to be struck down to the extent of cut off date.

7. On the other hand the learned counsel for the respondents submitted that fixing the cut off date making it effective from 1.1.93 is perfectly legal and justified and no inference is called for by this Tribunal.

8. We have given thoughtful consideration to the rival contentions of both the parties.

9. It is very much clear from the averments of the parties that no formal decision was taken regarding the matter in issue in the year 1989 but the decision was taken subsequently in consultation with the recognised Labour Federations and instructions were issued in this regard vide letter dated 25.11.92, making it effective from 1.1.93. The same cannot be said to be arbitrary, unconstitutional, irrational. Therefore, we are of the considered opinion that there is no basis to struck down the circular dated 25.11.92 so far as it relates to making it effective w.e.f. 1.1.93.

10. The learned counsel for the applicants has also submitted that the payment of retiral benefit was delayed by 3 years. Therefore, the applicants are entitled to interest from the respondents at market rate.


11. On the other hand the learned counsel for the respondents objected to this arguments and stated that delay was not wilful, therefore, the applicants are not entitled to any interest. He has also submitted that in the earlier O.A no claim of interest was made, therefore, the interest

cannot be allowed to the applicants on delayed payment.

12. The respondents have admitted in the reply that the payment was delayed because of administrative exigencies. No administrative exigencies have been explained by the respondents either in the reply and during the course of arguments. We feel it proper that if the payment of retiral benefit is delayed on account of indifferent outlook/inefficiency on the part of the respondents, the applicant is entitled to interest on the delayed payment of retiral benefits @ 12% per annum.

13. We, therefore, reject the prayer of the applicants to ^{Strike} ~~struck~~ down the circular dated 25.11.92 so far as it relates to be effective w.e.f. 1.1.93 and allow another prayer of the applicants regarding entitlement of interest and direct the respondents to pay interest on the delayed payment @ 12% per annum from the date of superannuation till the date of payment, within a period of three months from the date of receipt of a copy of this order.

14. No order as to costs.


(N.P. Nawani)

Administrative Member.


(S.K. Agarwal)

Judicial Member.