

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.81/96

Date of order: 11.3.1997

Bihari Lal Sharma : Applicant

Vs.

1. Union of India through General Manager, Western Railway, Church Gate, Bombay.

2. Divisional Railway Manager, Western Railway, Ajmer.

3. Divisional Accounts Officer, Western Railway, Ajmer.

...Respondents.

Applicant present in person

Mr.M.Rafiq - Counsel for respondents.

CORAM:

Hon'ble Mr.Gopal Krishna, Vice Chairman

Hon'ble Mr.O.P.Sharma, Administrative Member.

PER HON'BLE MR O.P.SHARMA, ADMINISTRATIVE MEMBER.

In this application under Sec.19 of the Administrative Tribunals Act, 1985, Shri Behari Lal Sharma has prayed that the respondents may be directed to grant an amount of Rs.1,06,707.31 to the applicant, being the amount of arrears of pension of Rs.1,27,201.31 as reduced by the amount of Rs.20,494/- being the amount of bonous, with-held by the respondents. He has sought a further direction to the respondents to charge the same rate of interest on the arrears of pension payable to the applicant amounting to Rs.2.36,806.90 as charged from the applicant on the amount of bonous paid to the applicant Rs.20,494/- and thereafter make payment of arrears of pension to the applicant.

2. We have heard the applicant and the learned counsel for the respondents and have perused the records.

3. The factual position as emerging from the facts stated in the O.A and the reply of the respondents and the oral arguments of the parties is that on the basis of an order of the Tribunal passed in O.A.No.502/93 on 6.5.94 (Annx.A1), in the applicant's



own case, he became entitled to pension in view of the option exercised by him in 1971 and arrears of pension from the date of his retirement i.e 30.6.1977. In pursuance of the said order of the Tribunal, regular monthly pension is now being paid to the applicant. Before making payment of the arrears of pension to the applicant, the respondents deducted an amount of Rs.20,494/- being the bonus paid to the applicant on the SRPF account and interest Rs.1,06,707/- chargeable on the amount of the said bonus Rs.20,494/- which was said to have been retained by the applicant for a considerable period. Calculation of the amount of interest of Rs.1,06,707/- has been furnished by the respondents. Thus, a total amount of Rs.1,27,201.31 was deducted from the gross amount of arrears of pension payable Rs.2,36,906.90 and the balance amount was paid to the applicant. The present O.A has been filed by the applicant essentially with a view to claiming back the arrears of Rs.1,06,707 which have been with-held by the respondents out of the gross amount of pension payable to the applicant, on account of the interest charged on retention of the amount of bonus Rs.20,494/- by the applicant for a considerable period.

2. The applicant's contention is that if the respondents are inclined to charge interest on the amount of bonus of Rs.20,494/- retained by the applicant, the applicant who became entitled to the payment of pension, in view of the order of the Tribunal dated 6.5.94 (Annx.A1), is also entitled to payment of interest on the amount of arrears of pension of Rs.2,36,806.90 which were retained by the respondents. The argument of the applicant is that since the Tribunal had directed the respondents to consider the option said to have been given by the applicant in 1971 as correct option and thereafter take a decision regarding the applicant's entitlement to pensionary benefits, therefore, on his retirement in 1977, the applicant

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became entitled to pensionary benefits and with-holding of arrears of pension to the applicant meant that the respondents retained the applicant's money with them for a considerable period and accordingly the applicant is entitled to being paid interest on the said amount. His further argument is that the respondents cannot apply one rate of interest or higher rate of interest while charging interest from him on the amount of bonus retained by him and another rate of interest on the arrears of pension which remained with them for a considerable period before its eventual payment to the applicant.

3. On 8.1.1997, we had directed to the respondents to furnish a calculation sheet regarding the interest that may be payable to the applicant if it is assumed that the applicant was also entitled to payment of interest on the amount of pension not paid to him from the date from which it was due. A copy of this calculation sheet had been furnished to the applicant and we have also perused it. From a perusal of the said calculation sheet we find that the rate of interest determined as payable to the applicant is 5% from 1977 to 1994 and thereafter it has been taken as 4.5%. Question arises why the respondents should take into consideration a different, much lower, rate of interest while working out the amount of interest payable to the applicant as against a much higher rate of interest, ranging between 8% and 12% at compound rate of interest payable by the applicant. The learned counsel for the respondents has not been able to show us any rule which suggests that rate of interest of 5% or 4.5% is to be paid to an employee on the amount of arrears of pension with-held or retained by them. According to the learned counsel for the respondents, there is no rule in the Railways which entitles an employee to receive any interest on the amount of arrears of pension. He added that the rate of interest of 5% or 4.5% has

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been taken on the assumption that the pension would have been deposited in a Savings Bank Account and the amount of interest payable to the applicant in the said Savings Bank A/c would range from 5 to 4.5%. As regards charging of interest from the applicant on the amount retained by him, the learned counsel for the respondents stated that there are rules which prescribe the rate of interest, on the basis of which calculation has been made for recovery of interest from the applicant.

4. We have considered the matter carefully. While there may be rules framed by the Railways regarding charging of a particular rate of interest from a retired employee on an excess amount retained by him, obviously there are no rules which suggest that the rate of interest of 5 or 4.5% can be adopted while calculating the amount of interest payable to a retired employee on the arrears of pension with-held or retained by the respondents. Of course the arguments of the respondents is that no interest is at all payable to the applicant on the amount of arrears of pension retained by them. However equity demands that when the respondents are going to charge interest from the applicant on an amount retained by him to which he was not eventually entitled, the applicant should also be paid interest at a reasonable rate on the amount of arrears of pension retained by the respondents for a considerable period i.e. from March 1977 to 1995. We are not ~~persuaded~~ ^{persuaded} that the rate of interest payable to the applicant should be lower than which should be chargeable to him. However, on taking an over-all view of the matter and after a careful consideration, we are of the view that in the circumstances of the present case neither should the respondents charge any interest from the applicant on the amount of bonus retained by him nor should the applicant be entitled to payment of interest on the amount of arrears of


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pension retained by the respondents. Thus, there is no question of either charging of any interest from the applicant or payment of any interest to him. In other words, the respondents shall now pay to the applicant an amount of Rs.1,06,707/-. The respondents are directed to make payment of the aforesaid amount of Rs.1,06,707/- to the applicant within a period of 3 months from the date of receipt of a copy of this order. The O.A stands disposed of accordingly with no order as to costs.


(O.P.Sharma)

Administrative Member.


(Gopal-Krishna)

Vice Chairman.