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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.23/99

Date of order: 2/12/99

Virendra Kumar, S/o Shri Gopi Ram, R/o Infront of ACJM Court, Mahua, Distt. Dausa, Retired Fitter Gr.I, under Chief Works Supervisor, W.Rly, Jaipur Division, Sawai Madhopur.

...Applicant.

Vs.

1. The Union of India through General Manager, W.Rly, Churchgate, Mumbai.
2. Divisional Rly. Manager, Western Rly, Jaipur.
3. Divisional Mechanical Engineer (C&W), W.Rly, DRM Office, Jaipur.
4. Sr. Divisional Personnel Officer, W.Rly, Jaipur Divn. Jaipur.

...Respondents.

Mr.R.N.Mathur) - Counsel for applicant.

Mr.Vinod Goel )

Mr.B.K.Sharma - Counsel for respondents.

CORAM:

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

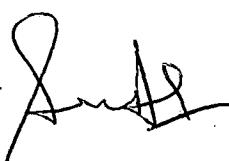
Hon'ble Mr.N.P.Nawani, Administrative Member.

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

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to regularise the period of suspension as period spent on duty and the respondents be directed to pay full salary for the period and the entire amount of commutation of pension and DCRG with interest @ 24% per annum.

2. In brief the case of the applicant is that the applicant was placed under suspension vide order dated 6.2.92 when the applicant was working on the post of Fitter Gr.I. Subsequently the suspension order was revoked by respondent No.3 vide order dated 14.8.92 under Rule 5(5)(C) of the Railway Servants (Discipline & Appeal) Rules, 1968. It is stated that the applicant was superannuated after completing 40 years of service on 31.1.96 but the respondents withheld his DCRG and commutation of pension without any specific reason. The applicant made representations but no heed was paid to his requests. Therefore, the applicant files this O.A for the relief as mentioned above.

3. Reply was filed. It is stated in the reply that the period of suspension has already been regularised vide order dated 23.6.99 and the said period has been treated as period spent on duty for all purposes. It has also been stated in the reply that payment of DCRG and commutation of pension of Rs.168,199/- has also been made to the applicant vide cheque No.255915 dated 25.3.99 and he is also being paid his pension regularly. Therefore, it is stated in the reply that this application has become infructuous and liable to be dismissed.



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

5. It is not disputed that the applicant was placed under suspension vide order dated 6.2.92 and the said suspension was revoked vide order dated 14.8.92 under Rule 5(5)(C) of the Railway Servants (Discipline & Appeal) Rules, 1968. It is also undisputed that the said period was regularised and the period of suspension was treated as the period spent on duty vide order dated 23.6.99. No departmental enquiry was initiated by the respondents against the applicant. It is also evident that the applicant was retired w.e.f. 31.1.96 and at the time of retirement no departmental proceedings or any criminal case was pending against the applicant. But it is clear from the averments of the respondents that the applicant was paid commutation of pension and DCRG of Rs.168,199/- vide cheque No.255915 dated 25.3.99.

6. The learned counsel for the applicant submits that the applicant was paid DCRG and commuted value of pension late and this delay was due to the inefficiency and latches on the part of the respondents, therefore, the applicant is entitled to interest on the delayed payment of DCRG and Commutation of pension. It is also clear from the averment of the applicant that the applicant filed representation for making payment of DCRG and Commutation of pension on account of the marriage of his daughter but the request of the applicant was not given due attention.

7. In State of Kerala Vs. M.Padnabhan Nair, 1985 SCC(L&S) 278, Hon'ble Supreme Court held that "Pension and gratuity are no longer any bounty to be distributed by the Govt 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".

8. It has further held by the Supreme Court that liability to pay interest commences from the expiry of two months from the date of retirement.

9. It is settled law that delay seems to be unreasonable and unjustified, the applicant is entitled to interest on the delayed payment.

10. In the instant case, the suspension of the applicant was revoked vide order dated 14.8.92 and no criminal case or departmental proceedings were said to be pending against the applicant. After revocation of suspension the period of suspension should have been regularised by the respondents at the earliest. Merely that the period of suspension of the applicant was not regularised till 23.6.99 is no ground to withhold the payment of DCRG and Commutation of Pension. It appears that the delay of payment of DCRG and Commutation of pension to the applicant was due to the negligence and lethargic view of the respondents in spite of repeated

representations of the applicant. In view of the above, we are of the considered view that the applicant is entitled to interest @ 12% per annum on the delayed payment of DCRG and Commutation of Pension w.e.f. 1.10.1996 till he receives the payment.

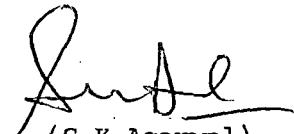
11. We, therefore, allow this O.A and direct the respondents to pay interest to the applicant @ 12% per annum from 1.10.1996 on Rs.168,199/- till he receives the payment. This direction must be complied with within 3 months from the date of receipt of a copy of this order.

12. No order as to costs.



(N.P.Nawani)

Member (A).



(S.K.Agarwal)

Member (J):