

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.511/99

Date of order: 30/3/2001

Shri Gopal Kumawat, S/o Ramdeo Kumawat, Retired Power Fitter Gr.I, Train Lighting Deptt, Ajmer, C/o Chothmal Darji, House No.18/67, Mundri Mohalla, Ajmer.

...Applicant.

VS.

1. Union of India through the General Manager, W.Rly, Churchgate, Mumbai.
2. Divisional Rail Manager, W.Rly, Ajmer Division, Ajmer.
3. Divisional Cashier (Wages), W.Rly, Ajmer.

...Respondents.

Mr.S.R.Chaurasia, Proxy of Mr.P.D.Khanna - for applicant.

Mr.S.S.Hasan - Counsel for respondents.

CORAM:

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

Hon'ble Mr.A.P.Nagrath, Administrative Member.

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

In this O.A filed under Sec.19 of the Administrative Tribunals Act, 1985, the applicant claim interest @ 18% per annum on payment of Rs.1,53,219/- which is delayed for about 13 months.

2. In brief, the case of the applicant is that the applicant was retired from service on 30.11.97 and he was paid arrears of wages of Rs.14,258/- on 5.10.98 and gratuity and commutation of pension Rs.138961 by cheque dated 8.1.99. It is stated that the applicant was not paid interest on the delayed payment as the delay in payment was caused by the respondents. The applicant filed representation on 27.2.99 but not replied therefore the applicant served a notice to the respondents but with no avail. Therefore, the applicant filed the O.A for the relief as above.

3. Reply was filed. It is stated that on retirement the

applicant was paid his retiral benefits on the date of his retirement i.e. on 30.11.97, as under:

GIS	: Rs.8738/-
DCRG	: Rs.57209/-
Commutation of Pension	: Rs.36150/-
Total	: Rs.93359/-

The pension was also sanctioned to the applicant w.e.f 1.12.97 but when the pay scales were revised as per the recommendations of the Fifth Pay Commission, as per instructions, options are required from the employees who retired w.e.f. 1.1.96 to 31.12.97 as to whether they want to remain in the prrevised scale of pay or to elect revised scale of pay under the Fifth Pay Commission. within 60 days and after receiving the applicant's option arrears on revision of pay, gratuity, commutation of pension, etc, were calculated and paid to the applicant on 5.10.98 vide Annex.A1 and on 8.1.99, vide Annex.A2, within time. It is further stated that there was no delay on the part of the respondents in making the payment of arrears, as per the revised pay scale, therefore, the applicant is not entitled to interest and in view of the above, the applicant is not entitled to any interest sought for.

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

5. The Counsel for the respondents has drawn our attention to Rule 87 of the Railway Services (Pension) Rules, 93 and argued that as per these rules, the applicant is not entitled to interest on delayed payment of gratuity etc. Rule 87 is reproduced as under:

87. Interest on delayed payment of gratuity:

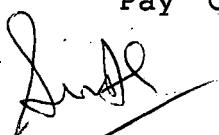
(1) If the payment of gratuity has been authorised after three months from the date when its payment became due on superannuation and it is clearly



established that the delay in payment was attributable to administrative lapse, interest at such rate as may be specified from time to time by the Central Govt in this behalf on the amount of gratuity in respect of the period beyond three months shall be paid.

6. On a perusal of the rules, it becomes abundantly clear that the respondents' department cannot take shelter of the aforesaid rules as the applicant was paid arrears of gratuity etc on account of revision of pay scale as implemented by the govt of India on the recommendations of the Fifth Pay Commission. Therefore, in our considered view this rule does not help the respondents looking to the facts and circumstances of this case.

7. Admittedly, the applicant was retired on 30.11.97 from the service and retiral benefits were paid to the applicant on the date of his retirement i.e. on 30.11.97. Therefore, there was no delay in making the payment of retiral benefits payable to the applicant on superannuation. It is also undisputed fact that the recommendations of the Fifth Pay Commission were accepted by the Govt of India and the Govt of India has issued instructions for making payment of pay and allowances and pensionary benefits vide letter dated 18/20.11.97. It is also clear from the averments that the applicant filed his option within time as specified in the instructions. Thereafter, the respondents' department took about a year or so in settling/releasing the payment of arrears of pay and allowances and retiral benefits to the applicant. The only explanation given by the respondents is that after receiving the option from the applicant, arrears were calculated on pay and allowances and retiral benefits on account of revision of pay under the Fifth Pay Commission and paid to the applicant, accordingly. No

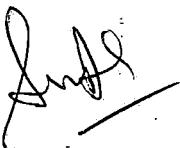


other explanation has been given regarding the delay in making the payments.

8. In case of an employee retiring after having rendered service it is expected from the Govt department that all the payment of his retiral benefits should be paid to him as early as possible and if due to some unforeseen circumstances the payment could not be made that should be properly explained. In this case, there is absolutely no reason or justification in not making the payment of arrears of pay and allowances and retiral benefits to the applicant in pursuance of the order issued by the department for implementing the recommendations of the Fifth Pay Commission.

9. In State of Kerala & Ors Vs. V.M.Padmanabhan Nair, 1985(1) SCC 429, Hon'ble Supreme Court held that 'Retiral dues like pension, gratuity are no longer any bounty to be distributed by the government to its employees on their retirement. They have become valuable rights in the hands of the retired employees under various decisions of the Supreme Court. Any culpable or unjustified delay in settlement and disbursement of the retiral benefits by the government will make them liable to pay interest on the delayed payments. This view gets support in the case of S.R.Bhanrale Vs. Union of India & Ors, 1997(1) AISLJ 1.

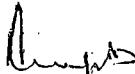
10. As the respondents' department has issued instructions for implementation of the recommendations of Fifth Pay Commission vide letter dated 18/20.11.97 and in pursuance of this order options were called from the applicant and the applicant filed his option electing the revised pay scale. Therefore, after receiving the option, it was the duty of the respondents to pay the arrears of pay and allowances and other retiral benefits to the applicant within a reasonable time. The reasonable time in the present case can be said to be



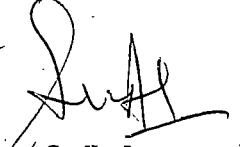
utmost 3 months. It means, the respondents' department must have paid the arrears of pay and allowances and retiral benefits to the applicant within 3 months from the date of receipt of option/completion of 60 days from the date of option was sought. Therefore, we are of the opinion that delay beyond 30.4.1998 on the part of the respondents is unreasonable, unjustified and the respondents' department is liable to pay interest @ 12% per annum for the unreasonable delay in making the payment of arrears of pay and allowances and retiral benefits to the applicant.

11. We, therefore, allow the O.A and direct the respondents to pay the applicant interest @ 12% per annum on the delayed pay and allowances and retiral benefits, from 1.5.1998 till the actual payment. The whole exercise must be completed within 3 months from the date of receipt of a copy of this order.

12. No order as to costs.


(A.P.Nagrath)

Member (A).


(S.K.Agarwal)

Member (J).