

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR
O.A.No.13/2000.

Date of order: 26/7/2001

Hazari Lal, S/o Sh.Moti Lal, R/o Gopi Nagar, Station
Road, Sanganer, Jaipur.

...Applicant.

Vs.

1. Union of India through the General Manager, W.Rly,
Churchgate, Mumbai.
2. The Divisional Rly.Manager, W.Rly, Jaipur.

...Respondents.

Mr.Shiv Kumar : Counsel for applicant

Mr.B.K. Sharma : for respondents.

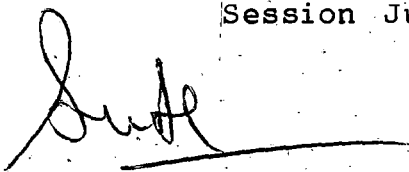
CORAM:

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

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

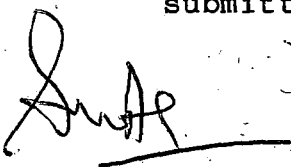
In this O.A filed under Sec.19 of the ATs Act, 1985,
the relief sought by the applicant is to direct the
respondents to make payment of Rs.4702/- (short payment
regarding retiral benefits) and to make payment of interest
on Gratuity, Provident Fund and other retiral benefits at
market rate.

2. Facts of the case as stated by the applicant in this
O.A are that Sh.Champalal died on 17.1.89 while working on
the post of Helper in Western Railway, Jaipur Division and
the retiral benefits were with-held by the respondents'
department due to dispute regarding succession/legal heir.
It is stated that the applicant is the real brother of the
deceased Sh.Champalal and in order to over come the dispute
regarding succession/legal heir of Sh.Champalal, the
applicant filed a petition before the Court of District &
Session Judge for grant of succession certificate in his



favour and after contest a succession certificate was granted in his favour on 27.11.95 to make the applicant entitle for receiving payment of Rs.31,407/- as retiral benefits of late Sh.Champalal. It is stated that the applicant approached the department for getting payment of retiral benefits of late Sh.Champalal but the department did not pay him, therefore the applicant filed O.A No.355/98 before this Tribunal and the Tribunal vide order dated 2.11.98 directed the respondents to decide the legal notice of the applicant. It is stated that in pursuance of the Tribunal's order dated 2.11.98, the respondents paid Rs.26,705/- to the applicant instead of Rs.31,407/-. It is stated that no interest was paid to the applicant on the pensionary benefits. It is stated that the respondents' department only paid Rs.26,705/- as retiral benefits of late Sh.Champalal after 10 years of his death and no interest was paid to the applicant. Therefore, denial of interest on pensionary benefits is illegal, arbitrary and against the rules hence the applicant filed the O.A for the relief as above.

3. Reply was filed. It is stated by the respondents that retiral benefit of Rs.26,705/- due to late Sh.Champalal was paid to the applicant. Merely a succession certificate was issued authorising to receive Rs.31407/- to the applicant does not entitle him to get the payment of the amount as mentioned in the succession certificate. Therefore it is stated that the applicant was only entitled to the amount which was legally admissible to him hence the applicant is not entitled to the amount as mentioned in the succession certificate. It is stated that the applicant submitted the prescribed form on 21.12.98 and thereafter the



applicant was paid the retiral benefits as payable to late Sh.Champalal on 9.4.99, therefore, the applicant is not entitled to any interest and the applicant has no case for interference by this Tribunal.

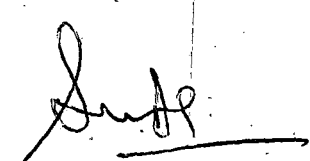
4. Heard the learned counsel for the parties and also perused the whole record.

5. On a perusal of the averments of the parties it appears that the applicant was entitled to Rs.26705/- as retiral benefits payable to late Sh.Champalal and not Rs.31407/-. Merely because the amount mentioned in the succession certificate is Rs.31407/- does not make the applicant entitle for the said amount. The applicant is only entitled to get such amount which is legally admissible to him. The succession certificate merely gives an authority to the applicant to receive the amount mentioned in the succession certificate but it does not mean that he is legally entitled to get the amount mentioned in the succession certificate from the department. Entitlement is to be determined by the department and according to the respondents, the applicant was only entitled to Rs.26705/-. Therefore, no infirmity or illegality has been committed in making the payment of Rs.26705/- in place of Rs.31407/-.

6. The applicant also claimed interest on Gratuity, GPF and other pensionary benefits at market rate.

7. As regards interest on gratuity is concerned, Rule 87 of Railway Services (Pension) Rules, 1993 provides as under:

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 on 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 the part of the railway servant to comply with the procedure laid down in this Chapter.

2) Every case of delayed payment of gratuity shall be considered by the General Manager or Administrative Head of the Railway Unit, as the case may be, and where the said General Manager or Administrative Head is satisfied that the delay in the payment of gratuity was caused on account of administrative lapse, he shall order for arranging the payment of interest. The powers to pass order for payment of interest on delayed payment of death-cum-retirement gratuity shall rest with General Manager or Administrative Head of the Railway Unit and shall not be delegated to any lower authority.

3) In all cases where the payment of interest has been ordered, the railway shall fix the responsibility and take disciplinary action against the railway servant or servants concerned who are found responsible for the delay in the payment of gratuity.

4) If as a result of Govt decision taken subsequent to the retirement of a railway servant, the amount of gratuity already paid on his retirement is enhanced on account of:

Smt

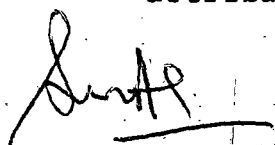
- a) grant of emoluments higher than the emoluments on which gratuity already paid was determined, or
- b) liberalisation in the provisions of these rules from a date prior to the date of retirement of the railway servant concerned, no interest on the arrears of gratuity shall be paid.

5) Gratuity becomes due immediately on retirement and in case of railway servant dying in service, action for finalising his pension and death cum retirement gratuity shall be taken in accordance with the provisions of Chapter IX.

8. According to this Rule, interest can be allowed on gratuity if delay in payment was attributable to the administrative lapse. In the instant case delay in payment of gratuity cannot be said to be attributable on the part of administrative lapses as it is clear that due to dispute raised by the legal heirs, one of the legal heir submitted petition for succession certificate and the same was granted to the applicant in the year 1995 and thereafter the formalities were completed and gratuity was paid to the applicant, accordingly.

9. In view of the above facts and circumstances of this case, the delay in payment of gratuity cannot be attributed on account of lapses on the part of the administration, therefore, the applicant is not entitled to interest on gratuity, as per the provisions given in Rule 87 of the Railway Services (Pension) Rules, 1993.

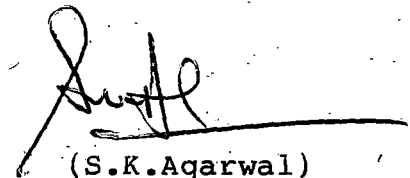
10. As regards interest on GPF is concerned, it is held by Lucknow Bench of the Tribunal in Mohanlal Sangal Vs. Union of India & Ors, 2000(3) ATJ 648, that if delay is not attributed to the applicant and was caused by the



circumstances beyond his control, the applicant is entitled to interest in the accumulated amount in the GPF account of the applicant. In the instant case, delay in payment of GPF to the applicant was not attributable to the applicant but it was caused by the circumstances beyond his control as after death of Sh.Champalal, dispute was raised by the so called legal heirs and the department appears to have asked the person concerned to produce succession certificate and the same was granted to the applicant only in the year 1995. Thereafter, certain formalities were required to be completed and after fulfilling all those formalities, the applicant was paid GPF amount due to late Sh.Champalal. In view of the decision, given in the aforesaid case by the Lucknow Bench of the Tribunal and looking to the facts and circumstances of this case, it can be said that the applicant was entitled to interest @ 12% per annum on the accumulated balance in the GPF account of deceased Sh.Champalal.

11. In view of above all, this O.A is allowed in part and the respondents are directed to pay interest @ 12% per annum on the accumulated balance in the GPF account of deceased Sh.Champalal with effect from the date of death of Sh.Champalal till the actual payment of the GPF amount paid to the applicant, within 3 months from the date of receipt of a copy of this order. Other reliefs claimed by the applicant are hereby rejected, having no merit.

12. No order as to costs.



(S.K.Agarwal)

Member (J).