

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Order : 21.12.2004

Original Application No.589/2002.

Totaram yadav S/o Shri Kachadu Singh Yadav, aged about 60 years, r/o village and Post Singhavali Aeher, Distt. Bhagphat, U.P. last employed on the post of Junior Fuel Inspector, Bandi Kui, Western Railway, Jaipur Division.

... Applicant.

v e r s u s

1. Union of India through General Manager, Northern Western Railway, Jaipur.
2. Divisional Railway Manager, Western Railway, Jaipur Division, Jaipur.

... Respondents.

None is present for the applicant.
Mr. V. S. Gurjar counsel for respondents.

CORAM

Hon'ble Mr. M. P. Singh, Vice Chairman.
Hon'ble Mr. M. L. Chauhan, Judicial Member.

: O R D E R (ORAL) :

The applicant has initially filed this OA
thereby praying for the following reliefs :-

- "(i) Interest on Rs.15448/- which was paid to the applicant as arrear of stagnation.
(ii) The arrear of pension may be paid to the applicant with effect from 2.7.88 to 2.7.99 instead of 1.7.95 to 2.7.99. This has been done because the applicant was granted stagnation increment due to this pension was revised with effect from 1988 not with effect from 1995.
(iii) The applicant was not paid the leave encashment of Rs.900/-.

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(iv) The applicant was not also paid the amount of Rs.407/-, which they have withheld in lieu for not vacating the quarter.

(v) The applicant was paid the amount of Rs.33087/- as a PF amount but interest was not paid to the applicant on the amount of Rs.33087/- with effect from March 87 to 91.

(vi) The respondents may be directed to pay the above mentioned payment which has not been paid to the applicant.

(vii) Any other order/direction /reliefs may be passed in favour of applicant, which may be deemed fit, just and proper under the facts and circumstances of this case.

(viii) That the cost of this application may be awarded."

2. When the matter was taken up for admission, the applicant could not satisfy this Tribunal as to how he is entitled for the amount as mentioned in the relief clause (as no basis for such claim was set out in the OA. Subsequently, the applicant has filed Calculation Chart of due and drawn statement thereby indicating the amount of interest to be paid by the respondents. In that chart, the applicant is now claiming for the following amounts :-

Item No.	Name of Dues
1.	PF Account No.10420800 was in force 1956 to Feb 1987 Rs.82291 Paid on 23/8/91 but interest was not paid by the respondents.
2.	PF Account No.16965887 was in force from March 1987 to 31/07/91 and Amount Rs.33087 paid but interest was not paid.

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3. Amount of Rs.6482/- was paid as difference of pension but interest was not paid by the respondents.
4. The amount of Rs.39593/- was paid to the applicant as DCRG on 24/11/1994 but he was paid interest for 36 months instead of 40 months as applicant stood retired from w.e.f. 31/7/1991."

3. Notice of this application was given to the respondents. Respondents have filed reply. In the reply it has been stated that the present OA is not maintainable in view of the law laid down by the Apex Court in the case of CIT vs. T. P. Kumaran, (1996) 10 SCC 561, as the same is barred by constructive res judicata under Section 11. On merit it has been stated that the applicant has been paid interest on all admissible dues pursuant to the decision rendered by this Tribunal in earlier OA No.83/95 decided on 12.11.1999 whereby the Tribunal has directed the respondents to pay interest only on retiral amount. Learned counsel for the respondents argued that in the earlier OA the applicant was not aggrieved on account of non payment of GPF amount and the issue involved in the earlier OA was for declaring the circular dated 25.11.1992 as illegal and unconstitutional which became effective from 1.1.1993 after the date of retirement of the applicant and he was not held entitled for the relief as contemplated in the

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circular dated 25.11.1992. This plea of the applicant was also declined by the Tribunal in the earlier OA. However, the direction was given to the respondents only to pay interest in respect of other retiral benefits.

4. None has put in appearance on behalf of the applicant.


5. We have heard the learned counsel for the respondents. We are of the view that the present OA is not maintainable ~~for~~ more than one reasons. Firstly, the applicant is aggrieved on account of non payment of retiral benefits pursuant to the order passed by this Tribunal in earlier order dated 12.11.1999 whereby the respondents were directed to pay interest on the delay payment of retiral benefits @12% per annum. Respondents have in their reply categorically stated that they have paid all the entire amount pursuant to the direction issued by this Tribunal in the earlier OA. In case the applicant was still aggrieved that the judgement of this Tribunal has not been fully complied with, it was permissible for him either to file Contempt Proceedings or to file Execution Petition as contemplated under the Provisions contained in Administrative Tribunals Act

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1985. The applicant has not exhausted the statutory remedy available to him, rather the applicant has filed substantive OA thereby seeking the execution of the earlier order. According to us, the substantive OA is not a remedy for such matters.

6. Even on merit, the applicant is not entitled to any relief. The applicant has not placed any material on record as to on what basis he is entitled to the amount as reflected in due and drawn chart. In the absence of any material placed before us and more particularly when the respondents have categorically stated that nothing is payable to the applicant and the interest as per the order rendered by this Tribunal in earlier OA has already been paid, no relief can be granted to the applicant.

7. For the reasons stated above, the OA is dismissed with no order as to costs.


(M. L. CHAUHAN)

MEMBER (J)


(M. P. SINGH)

VICE CHAIRMAN