

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

JAIPUR, this the 25th day of January, 2005

ORIGINAL APPLICATION No. 400/2003

CORAM:

HON'BLE MR.M.L.CHAUHAN, MEMBER (JUDICIAL)

Vijay Singh Yadav
s/o Shri Umrao Singh,
Ex-station Master, Nimkathana,
aged about 64 years,
resident of 100, Shanti Nagar,
Khirni Phatak, Jhotwara, Jaipur.

.. Applicant

(By Advocate: Shri Nand Kishore)

Versus


1. Union of India through
General Manager, North Western Railway,
Hasanpura Road, Jaipur.
2. Divisional Rail Manager,
North Western Railway,
Power House Road,
Jaipur.

.. Respondents

(By Advocate: Shri N.C.Goyal)

ORDER (ORAL)

The applicant has filed this Original Application
thereby praying for the following reliefs:-



"(i) The respondents may kindly be directed to produce the entire record concerning to the case and after examination of the same, may be directed to make the payment of interest @ 12% on Rs. 1,58,296/- & Rs. 2,79,082/-. The cost of the litigation may be allowed in favour of the applicant.

(ii) Any other directions and orders which is deemed proper in the facts and circumstances of the case may kindly be allowed."

2. Briefly stated, the applicant while working as Station Master, Nimkathana was issued charge sheet dated 29.3.1997 (An.A1) by the Senior Divisional Operating Manager, Jaipur before his retirement on superannuation on 31.8.1997. Subsequently, the charge sheet was cancelled vide order dated 29.10.2002. Since the charge sheet for major penalty was issued against the applicant, his gratuity was withheld. However, the applicant was sanctioned a provisional pension w.e.f. 1.9.97 and thereafter on final disposal of the case, the applicant was paid final pension and also commutation and DCRG. Now the grievance of the applicant is that he is entitled to interest at the rate of 12% per annum as per Rule 87 of the Railway Services (Pension) Rules, 1993. It is further averred that the applicant has made representation to the respondents vide his representation dated 21.2.2003 that interest be paid to him but no action has been taken on his representation. Now by way of this OA, the applicant has prayed that the amount of Rs.1,58,296 was paid on 1.12.2002 and Rs. 1,79,082 was

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paid on 1.2.2003 i.e. after delay of about 4 to 5 years, as such the applicant is entitled to interest at the rate of 12% per annum.

3. The respondents have filed reply. The facts as stated above, has not been disputed. It is further stated that the applicant was paid amount of DCRG of Rs. 1,56,296 and commutation of pension amounting to Rs. 1,79,082 after disposal of DAR case against the applicant, which was dismissed on 29.10.2002. It is further stated that as per Railway Board letter No. PS/89/91 dated 6.5.1992, the replying respondents after calculating the interest amount as per rules as mentioned in the above letter i.e. after three months of retirement have been sent to the General Manager for approval and after approval the same will be paid to the applicant.

4. When the matter was listed for hearing on 6.1.2005 the learned counsel for the respondents informed this Tribunal that payment of Rs. 1,07,892/- sanctioned by the competent authority vide cheque No. 082395 dated 8.12.2004 has since been sent for crediting to the applicant's account in Punjab National Bank, Jhotwara Branch, Jaipur on 9.12.2004. The learned counsel for the respondents also produced letter dated 22.12.2004 in proof of this before the Tribunal. On the request of the learned counsel for

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the applicant, the matter was adjourned as according to the learned counsel for the applicant, he has not been informed by the applicant that he has received the payment. However, a contention was also raised before the Bench that the aforesaid amount is the interest only in respect of gratuity and it does not include the interest on commutation of pension which is also payable to the applicant as per rules. However, the matter was adjourned to enable the learned counsel for the applicant to check the exact position regarding crediting of the cheque in the applicant's account and the position of law with regard to payment of interest on commutation of pension. When the matter was listed today, the learned counsel for the applicant stated that his client has not received the aforesaid amount till date. Further, the learned counsel for the respondents was not in a position to make positive statement whether the cheque has been credited in the applicant's account.

5. I have heard the learned counsel for the parties and gone through the material placed on record.

5.1 At the outset, it may be stated that the learned counsel for the applicant has not made any submission regarding payment of interest of commutation of pension amounting to Rs. 1,79,082 and rightly so, ^{although} in the pleadings such submissions has been _{in}

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made, Even otherwise also, the applicant is not entitled to interest on commuted amount of pension. It is admitted fact that the applicant retired on 31.8.1997. He started receiving provisional pension from the next date i.e. w.e.f. 1.9.97 and he started drawing the same till regular pension was sanctioned to him after the disciplinary case was decided on 29.10.2002. Thus, the applicant started drawing full pension till his pension was commuted. The effect of commutation of pension is that the pensioner will receive a reduced quantum of pension. The reduction in monthly pension would become operative from the date on which the pensioner receives the lump sum commuted value or at the end of 3 months after the issue of authority by the Accounts Officer asking the pensioner to collect the commuted value of pension, whichever is earlier. In the case of pensioner who draws his monthly pension will be effective from the date on which the lump sum commuted value of pension is credited by the Bank to the pensioner's account to which his monthly pension is being credited. Thus, how the applicant is entitled for interest for the period in which he was drawing full pension and not reduced pension which became operative from the date on which the pensioner received the lump sum commuted value. It is not the case of the applicant that commuted value of pension has been wrongly worked out by the respondents by not taking the date of retirement as

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31.8.97 but the same has been calculated on the basis of the age attained by the applicant when the proceedings were dropped. As such, this point does not fall for consideration.

5.2 So far as second contention of the applicant that the amount of Rs. 1,07,082 sanctioned vide cheque No.082395 dated 8.12.2004 has not been credited to the applicant's account, the ends of justice will be met if suitable direction is given to the respondents in that behalf. Accordingly, the respondents are directed to take up the matter with the Punjab National Bank, Jhotwara Branch, Jaipur regarding crediting of cheque in the account of the applicant and if there is some discrepancy in the matter, the same shall be rectified forthwith. For that ~~purpose~~ one month's time is granted to the respondents to do the needful.

6. With the above directions, the OA is disposed of with no order as to costs.


(M. L. CHAUHAN)

Member (Judicial)