

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.1040/04

Jabalpur, this the 3rd day of June 2005

CORM

Hon'ble Mr.Madan Mohan, Judicial Member

J.D.Mishra
S/o R.T.Mishra
Ex.Sr.Sec.Engineer (PWI)
W.C.Railway, Jabalpur.
R/o Prabhat Vihar Colony
Panna Road
Satna (MP)

Applicant

(By advocate Shri M.R.Chandra)

Versus

1. Union of India
Through General Manager
West Central Railway
Jabalpur.
2. Divisional Railway Manager
West Central Railway
Jabalpur.
3. Senior Divisional Personnel Officer
West Central Railway
Jabalpur. Respondents.

(By advocate Shri H.B.Shrivastava)

O R D E R

Bv Madan Mohan, Judicial Member

By filing this OA, the applicant has sought the following reliefs:

- (i) Direct the respondents to grant interest at 12% p.a. for the delayed period in payment of retiral benefits.
- (ii) Direct the respondents to make the payment of double recovered amount and also payment of full pay and



allowances for the period he was unjustifiably kept under suspension from 8.10.1986 to 25.8.87 with 12% interest.

2. The brief facts of the case are that the applicant while working as Senior Sectional Engineer of West Central Railway, Jabalpur, was removed from service on 30.4.2001, with grant of compassionate allowance, as per rule. It is the settled rule and principle that provident fund amount is to be paid immediately and all other retiral benefits are required to be paid within 3 months, failing which, interest for the delayed period is to be paid. According to the applicant, his retiral dues were paid after undue delay. Therefore, he is entitled to receive interest at the rate of 12% per annum for the delayed period. The applicant has mentioned in para 4.3 of the OA the details of the delayed payment. Applicant made several personal approaches in this regard but without any result, except oral assurances. Annexure A4 dated 14.5.2004 is one of the applications. Aggrieved, the applicant has filed this OA.

3. Heard learned counsel for both parties.

4. Respondents in their reply have contended that the applicant had earlier approached the Tribunal vide OA No.6/2003 against the punishment of removal from service and delayed payment of settlement dues and had claimed interest on such delayed payment. The aforesaid OA was dismissed on 5.10.2004. He has suppressed this fact in the instant OA. Hence the instant OA is barred by the principles of res judicata. In the case of removal from service, though no pensionary benefits are payable to an employee, the disciplinary authority was pleased to sanction compassionate allowance invoking the provisions of Rule 65 of Railway Servants (Pension) Rules 1993. The case of the applicant is not of normal retirement. As the personal file and service registers were sent along with his revision appeal, necessary steps could not be initiated immediately to process payment of his settlement dues. On rejection of his revision appeal, the records were made available and necessary action to expedite payment of



settlement dues could be undertaken. The amount of PF and GIS were paid to the applicant on 28.1.2002 with interest on PF till that date. There has been no abnormal delay in arranging other dues apart from the amount of PF and GTS and compassionate allowance to the applicant. The applicant was not due for pension and DCRG. However, the claim of the applicant for payment of arrears of difference of pay for the suspension period has been processed and the difference of pay will be paid shortly to the applicant after obtaining sanction of the competent authority from Railway Board as the claim pertains to the year 1986 and 1987.

5. Learned counsel for applicant has drawn my attention towards (2001) 9 SCC 687 – Vijay L.Mehrotra Vs. State of U.P. and others - decided on January 31, 2000 – in which the Hon'ble Supreme Court has held that there was no reason or justification for not making the payments for months together and awarded simple interest from the date of retirement to the dates of actual payments. He further argued that the application is not hit by the principles of res judicata as the applicant is agitating the matter regarding interest on delayed payment for the first time.

6. Learned counsel for the respondents argued that the ruling cited on behalf of the applicant does not apply in the present case as it is not a case of normal retirement. The ruling cited on behalf of the applicant pertains to normal retirement.

7. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records, I find that the admitted facts are that the applicant was removed from service vide order dated 30th April, 2001 with a direction to grant him compassionate allowance. Thus, the applicant is entitled for grant of compassionate allowance immediately after the disciplinary authority passes the order of removal. However, the respondents have paid the terminal benefits to the applicant after an inordinate and unexplained delay. The details of the amounts to be paid/paid to the applicant are shown as under :

- (i) PF Rs. 5,32,194/- paid on 28.1.2002 instead of 1.5.2001



- (ii) Pension Rs. 1,07,982/- paid on 31.5.2003 instead of 1.5.2001
- (iii) DCRG Rs. 3,31,123/- paid on 1.3.2002 instead of 1.5.2001
- (iv) RELHS Rs. 11,050/- paid on 13.6.2003 instead of 1.5.2001
- (v) FD Rs. 5,000/- paid on 13.6.2003 instead of 1.5.2001
- (vi) FD Rs. 5,000/- paid on 22.6.2002 instead of 1.5.2001
- (vii) TA Rs. 1,254/- paid on 22.6.2002 instead of 1.5.2001
- (viii) RELHS Rs. 11,050/- though due and paid on 15.1.2002 through Cheque No. 215963 but the said amount was wrongly recovered on 11.2.2002 through Cheque No. 217856
- (ix) Non payment of difference of pay between the subsistence allowance paid for the suspension period of 8.10.1986 to 25.8.1987 and pay of duty and the allowance as full wages for the said period as per letter dated 15.11.2002 by Sr. DEN (CO), JBP. to the applicant.

The respondents in their reply have however stated that the amount of PF and GIS were paid to the applicant on 28.1.2002 with interest on PF till that date. The respondents have also admitted in their reply that the difference of pay for the suspension period will be arranged shortly after approval of the competent authority. They have also admitted that the claim pertains to 1986 and 1987 and the amount is approximately Rs. 12,000/-. Hence, the amount of Rs. 12,000/- is withheld. However, we find that the applicant has not stated in his OA that when the suspension period from 1986 to 1987 have been regularized by the respondents. From perusal of the above facts I find that the respondents have already paid interest on PF amount. As regards the remaining amount the respondents have not explained as to why the amount was withheld by them. Therefore, the respondents are liable to pay interest at the rate of 6% on all the amounts which was paid to the applicant, after three months from the date of the order of compassionate allowance was passed i.e. ^{1st} ~~from~~ 30.4.2001 except on the amount of PF. The respondents are directed to comply with the said order within a period of 4 months from the date of receipt of a copy of this order. As regards the arrears of pay and allowance for the



period of suspension amounting to Rs. 12,000/- from 8.10.1986 to 25.8.1987, I find that neither the applicant nor the respondents have pointed out as to when this period has been regularized by the respondents to be treated as duty period. In the absence of the records I cannot pass a specific order in this regard. However, I direct that the applicant will be entitled for interest on the said payment after three months from the date the respondents have passed the order of regularizing the said period as on duty.

8. In view of the aforesaid the Original Application stands disposed of. No costs.

(Madan Mohan)
Judicial Member

Aa/SA.

पृष्ठांकन सं. ओ/न्या..... जबलपुर, दि.....
प्रतिलिपि अन्वे निरात:-

- (1) संविधाय, उत्तम व्यापारालय चार एसोसिएशन, जबलपुर
- (2) आकेशदाता श्री/श्रीमती/कुमा..... के काउंसल
- (3) पत्त्यर्सी श्री/श्रीमती/कु..... के काउंसल
- (4) योग्यालय, केप्पा, जबलपुर व्यापारी द्वारा
सूचना एवं आवश्यक कार्यवाही हेतु

m-R Chandra Brij
H B Dhar Vaidya
Rajendra

18/8/1988
उप रजिस्ट्रार

Received
10/8/88
H B Dhar