

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH.

CIRCUIT CAMP AT BILASPUR (CHHATTISGARH)

Original Application No. 14 of 2003

Jabalpur, this the ^{24th} 23rd day of September, 2003

Hon'ble Shri Anand Kumar Bhatt, Administrative Member

W.J. Massey, aged about 56 years,
S/o. Late Shri John Massey, Ex-Guard
South Eastern Railway, Resident of
Tarbahar, Near Ghodadana School,
Bilaspur (Chhattisgarh) 495004.

.... Applicant

(By Advocate - Shri L.S. Rajput)

V e r s u s

Union of India, through,

1. The General Manager,
South Eastern Railway,
Garden Reach-Road,
Kolkata-700043.
2. The Divisional Railway Manager,
South Eastern Railway, Bilaspur-
Division, Bilaspur (Chhattisgarh).
3. The Senior Divisional Accounts
Officer, South Eastern Railway,
DRM's Office, Bilaspur
(Chhattisgarh).

.... Respondents

(By Advocate - Shri S.P. Sinha)

O R D E R


The present Original Application is regarding claim for interest on delayed final payment of Provident Fund after compulsory retirement from the service.

2. The facts of the case are that the applicant was compulsorily retired from the Railway service, where he was holding the post of Guard-C, with effect from 09.10.1995. This order was challenged by the applicant in O.A. No. 173 of 1996 before the Tribunal which was dismissed by the Tribunal on 12.10.2001. The applicant has approached the Hon'ble High Court of Chhattisgarh at Bilaspur in Writ Petition No. 65/2002, which is still pending.

j

3. According to the applicant he approached respondent No. 2 some time in the middle of the year 2000 for payment of the G.P.F. amount, who advised him to make a representation to respondent No. 3 which was done by the applicant on 07.12.2000. Whereupon the applicant was informed that the G.P.F. balance of Rs. 45,636/- was passed for payment and was lying as unpaid since 02.07.1996. The applicant there upon protested that no intimation to the effect was given to him and therefore he requested for payment of compound interest. The applicant approached the Assistant Labour Commissioner (Central), Bilaspur for redressal of his grievances. However the ALC(C) filed the representation of the applicant, holding that the payment of compound interest was not an industrial dispute. After several representations the applicant in his last representation dated 16.08.2002 agreed to accept the P.F. amount of Rs. 45,636/- under protest which was credited to his account on 18.11.2002. The grounds taken by the applicant are that the final payment of G.P.F. cannot be done without an application of withdrawal by the applicant. The applicant was not advised regarding release of final payment of G.P.F., Other retiral dues have also not been paid to the applicant and although there were several opportunities for the respondents to intimate the applicant about the release of P.F. amount this was not done. The applicant has requested ^{be paid to him} for 12% compound interest on the total G.P.F. from 15.04.1996 to the actual date of payment on 18.11.2002.

4. In the oral submission the learned counsel for the applicant Shri Rajput has cited a decision of the Principal Bench of the Tribunal in Shri Subhash Chander Versus Union of India and Ors (O. No. 1174/2001, decided on 08.02.2002) reported in 2002(2) ATJ 26. This judgment has relied on the judgment of the Apex court in Vijay L. Malhotra Vs. State of U.P. (Civil Appeal 689/2000) decided on 31.01.2000, in which



it has been decided that the payment of retiral dues should be made on the date of retirement or soon thereafter and for the delayed payment of G.P.F. amount, leave encashment, gratuity, commuted pension and the provisional pension, 10% interest was allowed. The learned counsel further stated that before the decision of the OA No. 173/1996 no amount was offered to be paid to the applicant. The statement by the respondents that the Chief Yard Master under which the applicant was working was informed, but in turn the applicant was not informed. The learned counsel also stated that it is not correct to say as stated by the respondents in the reply to para 5.3, that all dues have been paid to him and so admitted by him.

5. The respondents on the other hand ^{have} stated that after the penalty of compulsory retirement payment was prepared for all dues of the applicant. A sum of Rs. 45,636/- which included the interest was arranged to be paid on 20.05.1995 and the applicant was asked to receive the same, but he refused to accept it stating that he has filed a petition in the Tribunal and he would accept it only after the decision of the case. It was only after the decision of the said OA No. 173 of 1996 on 12.10.2001, that the applicant first time sent a letter on 18.03.2002 asking for the payment. The respondents have vide their letter dated 19.07.2001 and 14.09.2001 had reminded that the cheque for the GPF amount was sent to the applicant, but was returned and was lying for payment. It was only after the decision of the OA the applicant showed his willingness to receive the GPF amount vide his letter dated 02.08.2002, which was credited to his bank account on 01.10.2002. Hence there is no delay.

6. In the oral submission Shri Sinha learned counsel for the respondents/Railways ^{in the case file} has shown a letter sent to the applicant on 12.08.1997 in which he was asked to come to the

Sh

office for settlement of the retiral dues. The GPF payment was ordered on 22.05.1996. The applicant never came for completion of the formalities for settlement of his retiral dues. The applicant did not want to take the dues because of the pending Original Application. No reply was given by the applicant to the letter sent by the respondents on 14.09.2001 (Annexure A-6).

7. In rebuttal Shri Rajput for the applicant stated that even if the applicant did not ask for payment it should have been paid to him and reiterated that the applicant was not informed about the GPF payment lying unpaid with the respondents.


8. I have seen the pleadings on both the sides and heard the learned counsel of both the parties at some length.

9. The said ruling cited by the applicant is not applicable in this case, as the case of Shri Vijay L. Malhotra (supra) was a simple case of retirement with no complications of compulsory retirement, application in the Tribunal etc. The respondents' statement that the applicant initially did not accept the final payment of GPF because of the pending OA in the Tribunal is believable. It is difficult to believe that after the payment of the GPF balance was released vide the respondents' order dated 20.05.1995 and was sent to the applicant's controlling officer, he did not come to know about it. Also the perusal of the case file does not show anywhere that there was not a separate cheque for the GPF amount and it was clubbed with other retiral dues of the applicant. The letter dated 07.12.2000 (Annexure A-2) by the applicant to the Senior Divisional Accounts Officer is only a request for information relating to the GPF balance and not a request for payment thereof. Even the letter dated 04.06.2001 (Annexure

J

A-3) filed by the applicant does not have any request for payment of the balance, but is only a reiteration of the request for ^Anon-supply of information regarding the same. The letter dated 18/19.07.2001 (Annexure A-4) seems to be a reply to the last letter of the applicant Annexure A-3. It can be inferred that the applicant did not take the payment of GPF balance with the objective of strengthening his application before the Tribunal and it is only after the said OA was dismissed the applicant accepted the settlement of his GPF.

10. In the result the Original Application has no merit and the same is accordingly dismissed. No costs.


(Anand Kumar Bhatt)
Administrative Member

पृष्ठांकन सं ओ/न्या..... जयपुर, दि.....

SAN

(1) यदि कोई व्यक्ति या संस्था किसी भी प्रकार से इस अधिनियम के अन्तर्गत कोई भी कार्य करने में विफल रहती है तो उसे दण्डित किया जायेगा।

(1) ~~...~~ ...
(2) ~~...~~ ...

(4) पुनर्वसन अर्थ मूल

(4) उत्तराखण्ड, जहाँ भारत सरकार के अधीन है।

सूचना एवं आशयः चतुर्थः ।

L.S. Rayput Acl
S.D. Smta. Acl

S.D. Sinha, Secy

6/10/03

6/10/03