

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 375 of 2003

Jabalpur, this the 21st day of July, 2003.

Hon'ble Mr. J.K. Kaushik, Judicial Member
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

Prit Pal Singh Sahni, aged about
61 years, S/o Shri N.S. Sahni,
retired S.S.E. (P.Way) Central
Railway, resident of E-8/58,
"SHIVA-KUNJ" Railway Housing
Society (Arera-Colony) Bhopal (M.P.)
461018

APPLICANT

(By Advocate - Shri L.S. Rajput)

VERSUS

UNION OF INDIA, Through

1. General Manager,
West Central Railway, Near Railway
Station, Indira Market, Jabalpur (M.P.) 482001
2. Divisional Railway Manager,
West Central Railway, DRM's Office,
Habibganj-Bhopal (MP)

RESPONDENTS

(By Advocate - Shri M.N. Banerjee)

O R D E R (ORAL)

By Anand Kumar Bhatt, Administrative Member -

This O.A. is about payment of retiral dues to
the applicant.

2. The applicant's submission is that he retired
from Railway service on 30.6.2002 on superannuation. He
has been given the final payment of the provident fund
and the insurance amount. The applicant has also started
receiving 60% of the pension. However, 40% pension towards
commutation, DCRG and encashment of leave salary have not
been paid to him. He made several representations to the
authorities in this regard but no formal intimation has
been given to him. He has been verbally told by the
concerning staff that these payments have been withheld
because of some stock verification sheet (for short 'SV Sheet'
for the year 1994-95 is pending against the applicant.

Later he was orally informed that the DCRG was withheld because he had retained the Railway quarter after retirement. As regards the SV sheet for the year 1994-95 ~~is concerned~~, the applicant states that a detailed enquiry was conducted to fix the responsibility of the person responsible for the shortage. The committee submitted its report(Annexure-A-5). In the findings, the applicant was not found responsible for the shortage of material and the contractor was held responsible for the shortage. Action was initiated against the contractor for recovery. The applicant was never questioned on the subject. However, the contractor has gone to the court against the order of recovery of shortage and the arbitration case is still pending in the court. According to the applicant the withholding of retiral dues is malafide, illegal and against the Railway Servants (Pension)Rules,1993(for short 'Pension Rules'). As per Rule 15 read with Rules 8 & 9 of the Pension Rules and Para 2308 of Indian Railway Establishment Code (for short 'the Railway Code') no action can be taken against the applicant after his retirement. He has also cited number of rulings - the latest being the case of Vijay L.Mehrotra Vs.State of U.P. and others, 2002 SCC(L&S)278.

3. In the reply filed by the respondents it has been stated that in the year 1995 there was a shortage of material worth Rs.13,82,790/- for which the contractor was found to be primarily guilty. The Company filed an Arbitration Case No. 96/02 which is pending. The Railway authorities have found ^{who} that the applicant was over all incharge of stores, was also responsible to ensure that contractor delivers the material at proper location and,therefore, in the interest of Railway administration, it was decided that till the case filed by the contractor in the Civil Court is pending, the pending retiral dues of the applicant are to be withheld. As regards the applicant's representation dated 17.2.2003, the representation was sent to the Headquarters ^{and} as the zonal office was shifted after bifurcation of the Central Railway, the instructions from the Headquarters were delayed. In the meantime the applicant has filed this O.A.

4. We have heard the counsel from both sides and have considered the case.

5. In the case of Vijay L. Mehrotra (supra) the Apex Court has decided that "it is expected that all the payment of the retiral benefits should be paid on the date of retirement or soon thereafter". In the said case the Apex Court also allowed interest at the rate of 18% with effect from the date of retirement to the date of actual payment of the various dues.

6. Under the Pension Rules no retiral dues can be withheld unless there are any departmental or judicial proceedings pending against the pensioner. It is necessary for such proceeding to be instituted while the Railway servant was in duty whether before his retirement or during his re-employment. However, in the present case we find that in the enquiry that was held about the shortage of material, no guilt was apportioned to the applicant and the contractor was held solely responsible for the shortages and accordingly action was started by the Railways to recover the amount. It is another matter that the said contractor has gone in arbitration to the Court, but this does not give any statutory authority or liberty as per rules for the authorities to stop the applicant's retiral dues. The right to withhold pension lies with the President only as per Rule 9 of the Pension Rules. As far as the detention of the staff quarter, the applicant has stated that he had been given permission to retain the quarter from 1.7.2002 to 31.12.2002 vide order dated 25.11.02 (Annexure-A-2) and vide order dated 6.1.2003 for another two months for January and February, 2003 (Annexure-A-3). He vacated the quarter on 9.3.2003 vide Annexure-A-4. We do not find any reason why the applicant should not be paid the retiral dues.

7. Accordingly, we direct that the applicant may be paid the commuted value of pension, encashment amount of leave salary within one month of the receipt of the communication of this order. The applicant may also be paid 8(eight) per cent interest from the date of his retirement to the date of actual

payment. As regards DCRG, in case any amount is due to him for detention of quarter up to 9.3.2003, it may be deducted and the balance paid to the applicant within two months from the date of communication of this order and he should be paid interest on the amount payable at the same rate as directed above, from the date of ^{Vacation of govt. accommodation &} ~~retirement~~ to the date of actual payment. The O.A. is accordingly allowed. No costs.

Anand Kumar Bhatt
(Anand Kumar Bhatt)
Administrative Member

J.K. Kaushik
(J.K. Kaushik)
Judicial Member

rkv.

पूँछांकन से ओ/व्या.....जहलपुर, दि.....

परिवर्तिति दाता विवर:-

(1) संपत्ति, उत्तर काशीनगर, जहलपुर, जहलपुर
(2) असेहार दी, नीमा, जहलपुर, जहलपुर
(3) पाटील दी, नीमा, जहलपुर, जहलपुर
(4) नीमा, जहलपुर, जहलपुर

LS Rayput - 8000
Mr. Banerji 8000

File Sealed
उपराज्यमाला 25/7/03

For seal.
M
25/7/03