

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 474 of 1999

Jabalpur, this the 22nd day of August, 2003

Hon'ble Shri D.C. Verma, Vice Chairman (Judicial)
Hon'ble Shri Anand Kumar Bhatt, Administrative Member

S.B. Dorairaj, S/o. Late A. Susiah
aged about 66 years, resident of
Mater Dei, 260, Sector 8, Faridabad
(Haryana) last employed as Deputy
Chief Engineer (Cons.), South Eastern
Railway, Bilaspur (Retired) from the
Office of the Chief Engineer (Const-
ruction), South Eastern Railway,
Bilaspur (MP).

... Applicant

(By Advocate - Ku. S.P. Mahawar)

V e r s u s

1. Union of India through
The Secretary, Railway Board
(Ministry of Railways),
Raisina Road, New Delhi.

2. Union of India
Through The General Manager,
South Eastern Railway,
Garden Reach, Calcutta
(WB) - 700 043.

... Respondents

(By Advocate - Shri M.N. Banerjee alongwith Shri Rajneesh
Gupta for Shri R.K. Gupta)

O R D E R (Oral)

By Anand Kumar Bhatt, Administrative Member -

By this Original Application the applicant has claimed interest and compensation on the various amounts of his retiral dues which were with-held by the respondents during the pendency of the enquiry after retirement.

2. The facts in brief are that the applicant retired from the Indian Railways Deputy Chief Engineer (Construction), South Eastern Railway, Bilaspur on 31.05.1991. On 30.05.1991 a charge sheet was issued to him for certain irregularities committed by him during his tenure as Senior Divisional Engineer, Line-III, South Eastern Railway, Bilaspur during the

period 1985 to 1987. An enquiry was conducted almost after 5 years between 13.05.1996 to 16.05.1996 and ultimately a punishment of communication of dis-pleasure of the Government was given to him vide order dated 17.02.1997. The applicant started getting various amounts with-held from his retiral dues from 10.09.1998. The applicant's detailed claims that he has preferred in this Original Application is in Annexure A-4 which includes interest on with-held amount of DCRG, commuted value of pension, in addition to cost of the litigation and avoidable ^{to mental torture.} expenditure. The applicant has also given a written argument which was pressed by the learned counsel for the applicant.

3. The respondents in their reply have stated that the applicant was sanctioned provisional pension vide order dated 14.08.1991. After the finalisation of the disciplinary proceedings against the applicant the with-held amounts of his retiral dues have also been released to him. As per order of the Tribunal in OA No. 671/1992 his provisional pension was revised to Rs. 2,380/- vide order dated 12.04.1996 and after completion of the D&A proceedings the DCRG amount was released to him on 28.08.1998. He has also been paid interest at the rate of 12% on the delayed payment of DCRG from 18.05.1997 (i.e. 3 months after the completion of the disciplinary proceedings) to 31.07.1998 (i.e. the prece-ding month of ^{payment of} passing of DCRG). This interest amount is Rs. 11,546/-. The commuted value of the pension has been paid to him as admissible on the original pension and not on the revised pension as claimed by the applicant. During the pendency of the proceedings the applicant was allowed 100% provisional pension.


4. We have heard the counsel for both the sides and have also gone through the pleadings and written arguments submitted

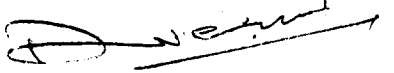
on behalf of the applicant.

5. The applicant was given 100% provisional pension during the pendency of the D&A proceedings and after the proceedings were finalised the balance amount of retiral dues which was with-held were also released to him by various orders. The applicant has also been paid interest for the delayed payment of DCRG after the finalisation of the disciplinary proceedings.

6. Rule 10(1)(c) of Railway Services (Pension) Rules, 1993 provides that no gratuity shall be paid to the Railway Servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon. A Division Bench of the Hon'ble Supreme Court in the case of Dr. H. Mukherjee Versus S.K. Bhargava reported in (1996) 4 SCC 542, upheld the order of the Single Bench of the Bombay High Court (Nagpur Bench). It was held therein that the subject matter of damages on account of alleged tortious acts of the defendant which have caused the plaintiff mental pain and injury does not fall within the jurisdiction of the Central Administrative Tribunal. *As such we cannot consider the request of the applicant in this regard.* As regards the case cited by the applicant in ~~the case~~ State of Kerala and others Versus M. Padmanabhan Nair, reported in AIR 1985 SC 356, the delay in payment of the retiral dues was due to non-production of last pay certificate, due to lapse of the issuing authority and therefore the Government was found liable to pay interest. This is not the case here. As such we do not think that the respondents can be faulted on the delayed payment of retiral dues and interest thereon. The applicant has been given very light punishment and that alone should have been sufficient for him to be satisfied with the way the things turned out for him. We feel that the present Original Application is mis-conceived and does not have any merit.

7. In the result the Original Application is dismissed.
No costs.


(Anand Kumar Bhatt)
Administrative Member


(D.C. Verma)
Vice Chairman (Judicial)

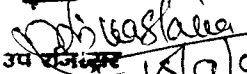
"SA"

पूछांकन से ओ/न्या.....जबलपुर, दि.....


परिलिपि अवधि:-

- (1) कलिय, मज्ज ज्वाफलय का: एरोसिगथन, जबलपुर
- (2) ओ/न्या ओ/न्या/कु.....के काउंसल
- (3) कलिय ओ/न्या/कु.....के काउंसल
- (4) ओ/न्या ओ/न्या, जबलपुर न्यायपीठ

समस्त एवं आवश्यक कार्यवाही हेतु


उप निदेश 18/9/03

Ku. S. P. Mahawar Adu
M. N. Bhatnagar Adu


11-9-03