

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH,
JAIPUR.

Jaipur, the 3rd day of August, 2010

ORIGINAL APPLICATION No.73/2009

With

MISC. APPLICATION No.42/2009

CORAM :

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

Suwa Lal
S/o Shri Ganesh Lal,
R/o Dhola Bhata, Upparla Kuwa,
After Railway Crossing,
Ajmer.

... Applicant

(By Advocate : Shri Sunil Samdaria)

Versus

Union of India through
General Manager,
North Western Railway,
Zonal Office, Ganpati Nagar,
Jaipur.

... Respondent

(By Advocate : Shri Anupam Agarwal)

ORDER (ORAL)

PER HON'BLE MR.M.L.CHAUHAN

Grievance of the applicant in this case is regarding order dated 8.8.2007 (Ann.A/1), whereby the DCRG amount, which was released to the applicant vide order dated 30.7.2007, has been withdrawn pursuant to the judgement dated 25.7.2007 (Ann.A/4) rendered by this Tribunal in OA 55/2005 [Suwa Lal v. Union of India & Ors.]. Subsequently, the applicant had filed

RA No.20/2008 for review of the judgement passed in OA 55/2005. However, this Tribunal vide order dated 11.12.2008 (Ann.A/7) has disposed of the said RA with a liberty reserved to the applicant to file a substantive OA thereby challenging the validity of the order dated 8.8.2007. Now, through the present OA, the applicant has challenged the order dated 8.8.2007 (Ann.A/1).

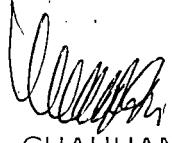
2. The applicant has also filed MA 42/2009 for condonation of delay in filing the present OA. In view of the averments made in the MA, the MA is allowed and the delay in filing the present OA is condoned.

3. Grievance of the applicant in this OA is that the competent authority, in the light of the instructions contained in Railway Board's letter No.F(E)111/2003/PNI/33 dated 5.2.2004 [RBE 25/2004] (Ann.A/8), has released the DCRG to the applicant despite the fact that judicial proceedings were pending against him which, according to learned counsel for the applicant, was of ^{unfair} ~~severe~~ nature but have nothing to do with the dispute between the applicant and the railway department. Thus, according to learned counsel for the applicant, notwithstanding the provisions contained in Rule-10 of the Railway Pension Rules, 1993, the said gratuity amount should have been released to the applicant in the light of the aforesaid instructions.

4. The respondents have filed their reply. In the reply the respondents have categorically stated that in fact the order dated 30.7.2007 was passed by the competent authority but the same was not given effect to as the same was never communicated to the applicant. It is further stated that since the Tribunal in the earlier OA had held the applicant not entitled to the gratuity amount on the plea that judicial proceedings were pending against the applicant, as such the order dated 8.8.2007 (Ann.A/1) was rightly passed by them.

12

5. I have given due consideration to the submission so made by the learned counsel for the parties. I am of the considered view that this OA can be disposed of at this stage with a direction to the respondents to consider the case of the applicant in the light of Railway Board's instructions dated 5.2.2004 (Ann.A/8) notwithstanding the fact that this Tribunal in the earlier OA had justified the action of the respondents in not releasing the commutation of pension & gratuity amount to the applicant during the pendency of the judicial proceedings. Accordingly, the OA stands disposed of in the aforesaid terms and the order dated 8.8.2007 (Ann.A/1) is quashed. The respondents are directed to do the needful within a period of three months from the date of receipt of a copy of this order. It is, however, made clear that this Tribunal has not gone into the merit of the case and the case is being disposed of in the light of RBE 25/2004 (Ann.A/8). No order as to costs.



(M.L.CHAUHAN)
MEMBER (J)

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