

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.914/2015

Order Reserved on: 01.03.2017

Pronounced on: 06.03. 2017

HON'BLE MR. K.N. SHRIVASTAVA, MEMBER (A)

Shri Mahesh Kumar Gupta,
S/o Shri Tara Chand Gupta,
11E, Vatika Apartments, Mayapuri,
New Delhi-110064.

-Applicant

(Applicant in person)

-Versus-

1. General Manager,
East Central Railway,
Hajipur, Bihar-844101.
2. Union of India through
Secretary, Railway Board,
Ministry of Railways, Rafi Marg,
New Delhi.

-Respondents

(By Advocate Shri R.N. Singh with Mr. Amit Sinha)

O R D E R

Through the medium of this Original Application (OA), filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for the following reliefs:

“(i) That the Applicant be paid interest of Rs.12,41,392/- as accrued from time to time from 21.11.2011 to 21.08.2012 and thereafter further interest of 18% (cumulative interest) due to abnormal delay by the Railways.

(ii) That the Applicant be issued the Health Card on the basis of declaration submitted for treatment of any disease as per entitlement.”

2. The brief facts of this case are as under:

2.1 The applicant while working as Chief Engineer (Construction-II) in the East Central Railway (ECR), Hazipur Patna, applied for VRS vide his application dated 14.06.2010. After a long delay, the Railway Board vide Annexure A-6 letter dated 18.07.2011, addressed to General Manager, ECR, granted VRS to the applicant under Rule 1802 (b)(1)R-II w.e.f. 13.09.2010. Pursuant to the grant of VRS to the applicant, his retiral claims were settled by the respondents in instalments. The final settlement was done on 21.08.2012. The claim of the applicant is that there has been abnormal delay in settling his retiral dues and thus he is entitled for claiming interest on the delayed payments.

2.2 In support of his claim he has placed reliance on the judgment of the Hon'ble Supreme Court in **Vijay L. Mehrotra v. State of U.P. and others**, [(2001) 9 SCC 687], wherein it has been held that all retirement benefits should be paid on the day of retirement or soon thereafter if for some unforeseen circumstances the payment cannot be made on retirement day itself. He has also relied on another judgment of Hon'ble Supreme Court in the case of **S.K. Dua v. State of Haryana & Another**, [(2008) 3 SCC 33], in which it is held that “if there are statutory rules occupying the field, the

applicant could claim payment of interest relying on such rules.” He further contends that in the absence of statutory rules, administrative instructions or guidelines, he can claim interest under Part-III of the Constitution relying on Articles 14, 19 and 21 of the Constitution of India.

3. The respondents in their reply have stoutly denied that there has been any delay in settlement of the retiral claims of the applicant. Giving details, the respondents have stated in the reply that pursuant to the communication of Railway Board dated 18.07.2011 in that regard, his entitlement for GIS, CTG and leave encashment were released on 08.12.2011 and 19.12.2011 respectively. In regard to release of his GPF a letter was sent to F&CAO, Hazipur on 21.11.2011. LPC duly vetted by F&CAO was issued on 29.12.2010 and later on 02.07.2012 was sent to FA&CAO for payment of pension, commutation of pension, DCRG and for issue of PPO. The PPO was issued on 30.01.2012 and revised PPO on 02.07.2012 (Annexure R-2). Hence, there has been no abnormal delay at the end of the respondents in settling the retiral claims of the applicant.

4. Arguments of the applicant in person and Shri R.N. Singh, learned counsel for the respondents were heard on 01.03.2017.

5. The applicant by and large reiterated the averments made in the OA in support of his claim for interest on the delayed release of his retiral dues.

6. Shri R.N. Singh, learned counsel for the respondents, on the other hand, besides stating that there has been no delay in settling the retiral dues of the applicant, raised the following two preliminary objections:

a) The applicant is residing at Noida after his retirement and that he retired from service from Patna. As such, his OA cannot be entertained by the Principal Bench of the Tribunal on the ground of jurisdiction.

b) The OA is also hit by limitation. The claim of the applicant was finally settled on 21.08.2012 whereas he filed the instant OA on 04.03.2015 and thus the OA suffers from the vice of limitation. He further stated that no doubt the applicant has submitted some representations after his dues were settled finally on 21.08.2012 but then repeated representations would not give fresh cause of action, as has been held by the Hon'ble Apex Court in the case of **S.S. Rathore v. State of Madhya Pradesh**, [AIR 1990 SC 10]. He also submitted that subsequent representations of the applicant are not in the nature of statutory representations.

7. Replying to the arguments of the learned counsel for the respondents, the applicant submitted that there has been no delay

in filing the OA. He said that he submitted his Annexure A-9 representation dated 13.09.2013 to respondent no.1 and waited for six months. As there was no response from respondent no.1, he came to this Tribunal in the instant OA. He submitted that under the Administrative Tribunals Act, 1985 a person can file OA within one year of the cause of action. He said that if the six months waiting period for the response from respondent no.1 is added to this one year, then there is no delay in filing the OA and as such the OA does not suffer with limitation of time.

8. I have considered the arguments of the parties and have perused the pleadings and documents annexed thereto. Admittedly, the applicant applied for VRS on 14.06.2010. Since he was holding a very senior position of Chief Engineer (Construction), his VRS application was required to be approved at a very high level in the Railway Board. Since several levels were involved in processing his VRS application, it took some time at the end of the respondents to grant VRS to the applicant. VRS was finally granted with effect from 13.09.2011 vide Annexure A-6 letter dated 18.07.2011. From the reply of the respondents, I find that no sooner the VRS was granted to the applicant, action was initiated by the respondents to settle various retiral dues of the applicant viz. pension, commutation of pension, DCRG and also for issue of PPO. In a normal case of retirement of a Government servant, the date of his superannuation is known well in advance. Thus, sufficient time

is available for the settlement of the retiral dues of the employee concerned and normally such dues are settled on the very day of retirement itself. In the instant case, it was not known as to how much time it was going to take at the end of the Railway Board to grant VRS to the applicant. Hence, advance action could not have been initiated to process and release his retiral dues on the day of grant of the VRS to him or immediately thereafter. From the records, it is quite apparent that efforts were put in by the respondents to settle the claims as early as possible. The details in this regard as culled out from the reply of the respondents are in para-3 supra. Hence, I do not agree with the contention of the applicant that there has been inordinate delay in settling his retiral dues and thus he should be granted interest on the delayed payments.

9. On this ground itself, without going into the other two issues of jurisdiction and limitation raised by the learned counsel for the respondents, I dismiss the OA, as I do not find any merit or substance in it.

10. No order as to costs.

(K.N. Shrivastava)
Member (A)

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