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**CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH**

Original Application No.180/00922/2016

Friday, this the 15th day of November, 2018

C O R A M :

HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

Prasoon Kumar N,
Aged 32 years,
S/o M.Narayanan Nair (late),
(Ex-Electrical Signal Maintainer Gr.I/
Southern Railway/Chengannur/Trivandrum Division),
Residing at: Kuzhuvelil Thekkethu,
Ennakkad P.O., Chengannur,
PIN: 689 624. ...Applicant

(By Advocate – Mr.T.C.Govindswamy)

V e r s u s

1. The Union of India represented by the General Manager, Southern Railway, Headquarters Office, Park Town P.O., Chennai – 600 003.
2. The Divisional Railway Manager, Southern Railway, Trivandrum Division, Trivandrum – 695 014.
3. The Sr. Divisional Personnel Officer, Southern Railway, Trivandrum Division, Trivandrum -695 014.
4. The Sr.Divisional Finance Manager, Southern Railway, Trivandrum Division, Trivandrum -695 014. ...Respondents

(By Advocates Mrs.Mini R. Menon)

This Original Application having been heard on 9th November 2018, the Tribunal on 15th November 2018 delivered the following :

O R D E R

The O.A is filed by Shri.Prasoon Kumar N aggrieved by denial of interest on the delayed payment of arrears on service benefits as also retirement benefits. He is also aggrieved by refusal on the part of the respondents to release the arrears of Productivity Linked Bonus as also arrears of House Rent Allowance due to his father while in service. The reliefs sought by the applicant are as follows :

1. Direct the respondents to pay interest @ 9% annum on the delayed payment of the life time arrears of pay and allowances and pension/family pension/retirement benefits of the applicant's late father, to be calculated from the date from which the arrears actually fell due up to the date of full and final settlement of the same as indicated in paragraph 4(d) above.
2. Direct the respondents to forthwith release the life-time arrears of Productivity Linked Bonus (PLB) and House Rent Allowance (HRA) due to the applicant's late father with interest @ 9% per annum to be calculated from the dates from which the arrears fell due to up to the date of full and final settlement of the same.
3. Award costs of and incidental thereto.
4. Pass such other orders or directions as deemed just and fit by this Hon'ble Tribunal.

2. The brief facts of the case are that the deceased employee while working as an Electrical Signal Maintainer/Signals at Chennur Railway Station of Trivandrum Division was placed under suspension with effect from 22.12.1992. The disciplinary proceedings initiated culminated in the imposition of a penalty of removal from service with effect from 27.4.1995. Through litigation before the Tribunal and High Court he was reinstated back to service vide Annexure A-2 order dated 13.8.2001. On 31.5.2007 he superannuated from service and on the basis of the last pay drawn in the post his pension was fixed provisionally. On 9.10.2010 he passed away.

.3.

After further litigation various life time arrears due to the applicant's father was given to the applicant on various dates and to the extent as indicated below :

Date of payment	Reason for payment	Amount paid
8.12.2014	Leave salary due as on 31.5.2007	Rs.26440/-
19.12.2014	Arrears of pay and allowances – period 1992 to 2007	Rs.763768/-
24.2.2015	DCRG due as on 31.5.2007	Rs.257073/-
24.2.2015	Pension/family pension arrears due from 1.6.2007	Rs.207496/-
16.5.2015	Pension arrears/family pension arrears due from 1.6.2007	Rs.272921/-
8.7.2016	Arrears on notional promotion as Sr. Technician due between 1994 and 2007	Rs.3986/-
10.7.2016	Do	Rs.102874/-

3. The applicant submits that the arrears of Productivity Linked Bonus and arrears of House Rent Allowance are still pending. He further submits that the money otherwise due to his father was unnecessarily withheld by the respondents and in that process he had to suffer substantially and face extreme hardships. In the circumstances he sent a Lawyer's Notice dated 4.10.2016 to the 2nd respondent. However, there is no response to Annexure A-6 Notice.

4 As grounds he submitted that it is well settled that no one shall suffer on account of the actions of the Courts and hence the respondents are liable to pay interest on the delayed payment of the various benefits due to his father from the date from which the arrears fell due up to the date on which the same was paid to him.

5. Per contra the respondents in their reply statement pointed out that there is delay in filing this O.A. They further submitted that the delay in processing and releasing retirement benefits was due to litigation and also for want of legal heirship certificate and guardianship certificate issued in favour of the applicant. Hence the applicant is not eligible for interest. With regard to Productivity Linked Bonus the respondents place their reliance on the judgment of the Hon'ble High Court in **Senior Divisional Personnel Officer, Southern Railway, Palakkad & Ors. v. M.Swaminathan & Ors. W.P.(C) No.3458/2005** wherein it has been observed that "*Productivity Linked Bonus is associated with production and leave salary wages also would depend on the leave accrued, on account of the number of days worked, employee is not entitled for the same though he is entitled for the back wages from the period he was out of service*". Hence for the period of service the deceased employee was not in service he is not entitled for leave salary and Productivity Linked Bonus. This has been affirmed by the Hon'ble High Court of Kerala in W.P.(C) No.3458/20015. With regard to HRA arrears, it is submitted that the amount is worked out to Rs.22115/-. Since an amount of Rs.106860 (Rs.3986/- and Rs.102874/-) was paid on 10.7.2014 erroneously as notional promotion fixation arrears, the same was deducted and still an outstanding amount of Rs.84475/- remains to be recovered from the applicant.

6. Shri T.C.Govindaswamy was heard on behalf of the applicant and Smt.Mini Menon for the respondents.

7. The issue pertains to the delay having occurred in disbursing various retirement benefits of the applicant's late father. He demands that these should be calculated from the date from which the arrears actually fell due to the date of full and final settlement of the same. He also demands that the arrears under the Productivity Linked Bonus and HRA due to the applicant's late father with appropriate interest to be released to the applicant who is the legal heir of the deceased employee. Shri Govindswamy called to his assistance two judgements in State of Kerala v. Padmanabhan Nair – 1985 KHC 23 (SLP(C) No.7425/1984) and Tewari D.D.(D) Thr. Lrs v. Uttar Haryana Bijli Vitran Nigam Ltd. and Others – 2014 KHC 4492 (C.A.NO.7113/2014) of Hon'ble Supreme Court. The first one State of Kerala v. Padmanabhan Nair – 1985 KHC 23 supports the grant of interest on pension and gratuity disbursed to a Government employee after a delay. The second judgement Tewari D.D.(D) Thr. Lrs v. Uttar Haryana Bijli Vitran Nigam Ltd. and Others – 2014 KHC 4492 emphasizes that pension and gratuity are not *largesse*, but entitlements of a Government employee and in case of delay in settlement and disbursement of the same would attract penalty of payment of interest. In this case it is admitted that there has been some delay.

8. On an examination of details of the case we see that this delay has been caused by the deceased employee having had to approach various courts of law. From this perspective we cannot conclude that there has been any deliberate delay on the part of the respondents. Further the learned

Counsel for the respondents pointed out that there had been delay in the applicant producing necessary certificate of legal heirship. Further as is seen from the OA various amounts have been disbursed from the dates ranging from December, 2014 to July, 2016 and the respondents contend in the statement that as per their records and on account of some erroneous payment made, it is for the applicant's side to return a substantial sum of money. However, we confine ourselves to the relief sought for in the OA.

9. While the judgment of the Hon'ble Apex Court decry delay in sanctioning terminal benefits to the retired employees, they are not specific to a case such as this where there has been a background as described in the OA. In so far as the claim made for PLB and for Leave Salary the judgment cited by the respondents viz., the **Senior Divisional Personnel Officer, Southern Railway, Palakkad & Ors. Vs. M.Swaminathan & Ors. In W.P.(C) No.3458/2005(J)** is relevant. After duly considering the contentions raised by both sides this Tribunal does not see any merit in the arguments advanced by the applicant. Hence OA is dismissed as devoid of merit. No costs.

(Dated this the 15th day of November 2018)

**E.K.BHARAT BHUSHAN
ADMINISTRATIVE MEMBER**

List of Annexures in O.A.No.180/00922/2016

1. **Annexure A1** – True copy of order dated 16.03.2000 in OA No.1110/97 rendered by this Hon'ble Tribunal.
2. **Annexure A2** – True copy of order bearing No.V/SG/155/Court/Vol.2 dated 13.08.2001, issued by the Divisional Signal & Telecommunication Engineer (DST), Trivandrum.
3. **Annexure A3** – True copy of the order dated 03.09.2013 in OA No.813/2012 rendered by this Hon'ble Tribunal.
4. **Annexure A4** – True copy of the Memorandum bearing No.V/P.524/IX/Vol.V dated 28.11.2014, issued by the 3rd respondent.
5. **Annexure A5** – True copy of the letter bearing No.V/P.535/IX/Misc. Dated 15.12.2015, issued by the 3rd respondent.
6. **Annexure A6** – True copy of the Lawyer Notice dated 04.10.2016, addressed to the 2nd respondent.
7. **Annexure R1** – True copy of the Legal Notice dated 26th June, 2012 received from the applicant's Counsel.
8. **Annexure R2** – True copy of the letter No.P 500/TVC/Pension/0604206645 dated 13.05.2014 of Sr. Divisional Financial Manager, Southern Railway, Trivandrum.
9. **Annexure R3** – True copy of the letter dated 14.08.2014 of the Chief Manager, CPPC, State Bank of Travancore, Vazhuathacuad, Thiruvananthapuram dated 14.08.2014.
10. **Annexure R4** – True copy of the Order dated 9th January 2015 in CP No.180/00047/2014 in OA No.813/2012
