

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK
OA No. 592/2006

Date of Reserve:20.02.2019

Date of Order: 25.2.2019

CORAM:

HON'BLE MR.GOKUL CHANDRA PATI, MEMBER(A)

HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

Upasi Behera, aged about 54 years, Sidow of late Lakhan @ Lakhan behera, Ex-Sweeper/Bridge Chowkidar under Senior Section Engineer, (P.Way), East Coast Railway, Jajpur Keonjhar Road, permanent resident of Village-Natilo, PO-Marjitapur, PS-Dharmasala, Dist-Jajpur

...Applicant

By the Advocate (s)-M/s.N.R.Routray

S.Mishra

-VERSUS-

Union of India represented through:

1. The General manager, East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar.
2. Sr.Divisional Engineer, East Coast railway, Khurda Road Division, At/PO-Jatni, Dist-Khurda.
3. Senior Divisional Personnel Officer, East Coast Railway, Khurda Road Division, At/PO-Jatni, Dist-Khurda.
4. Sr.Divisional Financial Manager, E.Co.Railway, Khurda Road Division, Jatni, Dist-Khurda.
5. Senior Section Engineer, (P.Way), East Coast Railway, jajpur Keonjhar Road, At/PO-Jajpur Road, Dist-Jajpur.

...Respondents

By the Advocate(s)-Mr.R.S.Behera

ORDER

PER MR.GOKUL CHANDRA PATI, MEMBER(A)

The OA has been filed by the applicant praying for the following reliefs:-

- i) To direct the respondents to issue the PPO and pay the pensionary benefits with 12% interest.

And pass any other appropriate order as deemed proper and fit in the interest of justice.

2. When the matter was heard on 20.2.2019, learned counsel for the applicant submitted that he will not press for any relief other than the relief for payment of interest on the delayed payment of the retirement benefits of the late husband of the applicant, who has been given all the benefits as prayed for in the OA except the interest. Deceased husband of the applicant was an employee under the respondents since 24.12.1967 and while under treatment, he expired on 28.5.2004. In November 2004 and September, 2005 the applicant represented the authorities for release of the retirement benefits of her late husband, but no action was taken for which, the present OA was filed. During pendency of the OA, the respondents have released the dues and have also issued the PPO for family pension in favour of the applicant. Learned counsel for the applicant submitted further that under the rule 87 of the Railway Services (Pension) Rules, 1993 such interest is payable for delay in release of the DCRG for the reasons not attributable to the applicant.

3. Learned counsel for the respondents was heard. He submitted that the claim of the deceased husband of the applicant could not be released in time due to non-submission of the documents and as soon as the documents were received after countersignature of the competent authority, the amount was released without loss of time. Regarding the pension, it was sent to Accounts Branch on 17.10.2006 and during examination, a clarification was sought from the applicant about the availability of the banking facility within 8 km radius and for that purpose, the applicant was advised to inform if she would draw pension from post office. In reply, the applicant in her letter dated 28.2.2007 (Annexure-R/2) informed that she would draw the pension from the Bank as informed earlier. Thereafter, the DCRG and the PPO were released on 5.3.2007. Hence, it was argued that there was no delay in releasing the DCRG and other claims of the applicant.

4. We have considered the submissions and the records as well as the pleadings of the parties in the context of the limited prayer for interest on delay in payment. To the submission that the clarification from the applicant about the bank was received on 28.2.2007, it is noticed that in the Rejoinder, the applicant has mentioned that such clarification was sought by the respondents vide letter dated 13.2.2007. We are unable to accept the contentions of the respondents about the delay in release of the pensionary benefits of the applicant, whose husband expired on 28.5.2004. As per the rules, it was the responsibility of the respondents to provide necessary assistance to guide the family for claiming their legitimate dues as per law. It is also seen from para 5 of the Counter that the Sectional Personnel Inspector has prepared the settlement documents which were forwarded to the authorities on 8.11.2004 after countersignature. After receipt of the documents, the PF dues were released on 25.1.2005. Then as mentioned in the Counter, the respondent no. 4 certified the DCRG of the applicant on 22.2.2007. The reason for delay of about three years in certifying the DCRG amount when the death occurred in May, 2004, has not been explained or clarified in the Counter. Hence, we are not convinced by the averments of the respondents that no delay has occurred in this case, particularly for the release of the DCRG and pension to the applicant.

5. Under the rule 87 of the Railway Services (Pension) Rules, 1993 interest on the delay in payment of the DCRG at the rate applicable for the SRPF is payable to the applicant if the delay is not attributable to the applicant. In this case, the delay after November, 2004 when the documents were submitted and forwarded after countersignature by the competent authority, is found to be on account of the delay on the part of the respondents, for which the interest is payable to the applicant. Although under the rule 87, interest on delayed payment of DCRG is payable, it is noticed that the respondents, in this case, have delayed the release of family pension to the year 2007 along with DCRG. As discussed above, that delay is squarely attributable to the respondents.

6. In view of the facts as stated above, the applicant is entitled for interest in the interest of justice. Hence, the respondents are directed to pay the interest as applicable to the SRPF for delay in release of the DCRG and @ 8% per annum interest for delayed release of the family pension (including the arrear family pension) for the period from December, 2004 till the date of actual release of the amount. The respondents are to comply this order within two months from the date of receipt of a copy of this order. The O.A. is allowed in part as above. There will be no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)

(GOKUL CHANDRA PATI)
MEMBER(A)

BKS

