

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

OA/020/00802/2016

Date of CAV:09.01.2019

Date of Order :07-02-2019

Between :

M.V.Kumar S/o late M.Suryaprakasa Rao,  
Aged about 65 years, Occ : Retd SSE (P.Way),  
O/o Sr DEN (Coord), East Coast Railway,  
R/o D.No.44-37-28, Akkayyapalem,  
Srinivasnagar, Visakhapatnam.

....Applicant

AND

1. The General Manager, East Coast Railway,  
Bhubaneswar.
2. The Divisional Railway Manager,  
East Coast Railway, Waltair.
3. The Divisional Personnel Officer,  
O/o The D.R.M., East Coast Railway,  
Waltair.
4. The FA & CAO (Pension),  
East Coast Railway,  
Bhubaneswar. ....Respondents

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Counsel for the Applicant: Mr. V. Venkateswara Rao

Counsel for the Respondents : Mr. M. Brahma Reddy, SC for Rlys

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CORAM :

THE HON'BLE MRS.NAINI JAYASEELAN, ADMINISTRATIVE MEMBER

(Order per Hon'ble Mrs. Naini Jayaseelan, Administrative Member)

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The applicant retired from service while working as SSE/P/Safety (Optg) on superannuation. However terminal benefits due and payable to him were withheld on the grounds of pendency, both of a Criminal Case

No.758/2006 and Departmental proceedings filed for an offence under section 3 (a) RP(UP) Act against the applicant and others.

2. The alleged offence related to Unlawful Possession of Railway property. The said case was dismissed by the Court of II Metropolitan Magistrate, Visakhapatnam vide its judgment dated 30-08-2014 in which it was held that the applicant and others were not guilty of the offence. The order also clearly mentions that the delay in the case was due to non production of witnesses. The applicants counsel stated that the applicant is not responsible for the non production of witnesses.

3. In spite of submitting a representation dated 24-11-2014 i.e after the verdict of the Court for release of his terminal benefits, the applicant has not receive any benefits. He submitted another representation dated 04-02-2015 to the same authority. Even then his terminal benefits were not released.

4. The applicant thereafter filed an OA No.416/2015 praying for directions to the Respondents to release the terminal benefits with interest from the due date. The said OA was disposed of on 25.03.2015 at the admission stage directing the Respondents to consider the claim of the applicant and to pass appropriate orders within 90 days from the date of receipt of a copy of the order in accordance with the law.

5. However, the Department initiated Disciplinary Case against the

applicant which was also later dropped vide orders dated 19.05.2015. The terminal benefits released to the applicant only in September, November, December, 2015 whereas the applicant retired in 2011. It is the contention of the applicant that due to malicious and vexatious litigation forced on the applicant, there has been an inordinate delay in release of the terminal benefits due to which the applicant has suffered huge financial loss besides effect on his reputation, mental agony and trauma. Accordingly, he made another representation dated 01-02-2016 followed by a legal notice dated 07-04-2016 wherein he demanded for payment of compensation and costs for the mental agony and trauma caused to him due to malicious litigation. This was rejected by the 3<sup>rd</sup> Respondent which is the impugned order.

5. According to the applicant the reasons for the delay of four years and seven months in the payment of his terminal benefits are not attributable to the applicant. The applicant has sought for payment of interest in accordance with Rule-87 of Railway Servants (Pension) Rules, 1993 which states that, 'if the delay in payment of gratuity is due to administrative lapse, interest for the period of delay is payable to the incumbent, as per Rule 87(1) of the said Rules. As per rule-87(f) of the Railway Servants (Pension) Rules, 1993, 'that interest at the rate of 12% pa compounded annually is payable as Railway Board's instructions dated 1-11-1995 and 8-1-1996.

7. Learned counsel for the applicant also placed reliance on the decision of the Hon'ble Supreme Court in the case of **D.D.Tewari Vs. Uttar Haryana Bijili Vitran Nigam Ltd.**, vide its judgment dated 1-8-2014 in C.A.No.7113 of

2014 arising out of SLP (C) No.25015 of 2011, wherein it is stated as follows :-

“ That pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement, but, have become, under the decisions of this court, valuable rights and property in their hands any culpable delay in settlement and disbursement thereof must be dealt with the penalty of payment of interest at the current market rate till actual payment to the employees.....”

8. In view of the facts and circumstances of the case as mentioned above, the respondents are hereby directed to pay interest in accordance with Rule 87 (f) of the Railway Servants (Pension) Rules, 1993.
  
9. Original Application is allowed accordingly. No order as to costs.

(NAINI JAYASEELAN)  
ADMINISTRATIVE MEMBER

Dated : 7<sup>th</sup> February, 2019.

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