

**CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00572/2018**

Reserved on: 08.02.2019
Pronounced on: 22.02.2019

C O R A M
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

Mannu Paswan, son of Sri Late Ram Dayal, resident of Village- Beri, Post-Kararya, PS- Bikram, District: - Patna- 801109.

..... Applicant.

- By Advocate(s): - Mr. S.K. Bariar

-Versus-

1. The Union of India, through the General Manager, East Central Railway, Hazipur- 844101.
2. The Divisional Railway Manager, East Central Railway, Danapur- 801105.
3. The Sr. Divisional Personnel Officer, East Central Railway, Danapur- 801105.
4. The Sr. DEN (Co-ord.), EC Railway Danapur Division, Danapur- 801105.

..... Respondents.

- By Advocate(s): - Dr. Shiv Kumar

O R D E R

Dinesh Sharma, A.M:- The case of the applicant is for grant of payment of 12% interest against the delay in the release of DCRG of Rs. 5,94,223/- and leave encashment of Rs 3,60,140/- for six years and nine months. An MA (380/2018) was filed to later amend the OA to include the judgment of this Tribunal in OA/050/00416/2017 which was a decision on a prayer by the same applicant for release of his retirement benefits and quashing of the pending disciplinary proceeding against him.

2. In the written statement by the respondents they have requested for dismissing the OA since it is barred by principle of res-

judicata. This Tribunal in OA 416/2017 had not granted him interest over the retiral dues though he had sought for that relief in the earlier OA too. The release of retirement benefits has been made in compliance of the order of this Tribunal in the same OA.

3. After going through the pleadings and hearing the learned counsels of both the parties, it is clear that applicant is claiming interest for the delayed release of his retirement benefits following this Tribunal's order. Though the applicant had not enclosed the complete order of this Tribunal in his OA it has been added later through a Miscellaneous Application mentioned above. The operative portion of this decision is quoted below: -

“Hence, the OA is allowed. The charge memo dated 17.11.2008 (Annexure-A/1) and disagreement note dated 02.01.2015 (Annexure- A/11) are hereby quashed on the ground of inordinate delay. Even though, the applicant has retired in 2011 and charge memo was issued in 2008, it could not be concluded within a reasonable time and in respect of the fact that in the enquiry report of 2011, the major Article of charges II and II were held not proved and Article III partly proved in view of his role in the matter was secondary but still the disciplinary proceeding could not be concluded even in 2012 and has resulted inordinate delay and as authorities did not exercise the jurisdiction vested with them at appropriate time and lingering the matter without any justifiable reason or cause, it is ordered to be dropped. Respondents are further directed to take consequential action as regards admissible retiral dues of the applicant, since the cloud of departmental proceeding evaporates. No costs.”

4. It is clear from the above that the only reason why the disciplinary proceedings were quashed was because of the inordinate delay

in finalising disciplinary action. This Tribunal did not order payment of interest though it was requested by the applicant in that OA too. The last sentence of the above decision makes the retiral dues admissible “since the cloud of departmental proceedings evaporates”. It is very clear from it that till the cloud of disciplinary action was there the retirement dues could not be paid and it became payable only on the quashing of departmental proceedings by the Tribunal’s order dated 01.08.2017. I agree with the contention of the respondents that this matter has already been decided by this Tribunal and there was no specific order to pay interest. The “consequential action as regards admissible retiral dues” arose only after the departmental proceedings were quashed by that order. Logically speaking, applicant should not get the benefit of getting departmental proceedings quashed on ground of delay and also get the benefit of getting interest on account of the same delay as it would amount to double benefit for the same lapse. The OA is, therefore, dismissed, on account of it being barred by the principle of “res-judicata” and also on merits, as detailed above. No costs.

**[Dinesh Sharma]
Administrative Member**

Srk