

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Original Application No.546/2017

Date: 21.08.2019.

CORAM:

Hon'ble SH.M.C.Verma, Member (J)

Shri Ishvarbahi D. Patel,
S/o. Dahyabhai V. Patel, Aged 58 years,
Removal from the post of Shunting Master,
II working at/under BL Valsad,
R/O: Talav Falia, At post-Ratlav,
PO. Udawada Station,
Tal: Pardi, Jilla, Valsad – 396 185.

Applicant

By Advocate Ms.S.S.Chaturvedi.

Vs.

- i) Union of India,
Notice to be served through,
General Manager,
Western Railway,
Churchgate, Mumbai – 400 020.
- ii) Area Manager,
Western Railway,
Valsad Railway Station,
Valsad.
- iii) Divisional Railway Manager,
Western Railway,
Mumbai Central,
Mumbai – 400 128.
- iv) Financial Advisor and Chief Account officer,
Western Railway,
Churchgate,
Mumbai – 400 020.

Respondents.

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By Advocate Ms.Roopal Patel.

O R D E R (Oral)

Per: M.C.Verma, Member (Judicial)

Instant OA has been preferred by the applicant seeking directions to the respondents to release the settlement dues and compassionate allowances. Crux of facts as has been set out in the OA by the applicant are that he was removed from service on 13.11.2003, respondents issued the memorandum of service particulars wherein it was stated that compassionate allowances has been granted to the applicant, that DRM(A) also issued order dated 19.08.2014 to release the compassionate allowances and settlement dues but respondents 2 and 4 did not act upon it. That DRM(A) again issued the order dated 18.12.2014 for reconstruction of service sheet and leave record of applicant but it was also not acted upon by respondents 2 and 4 and hence is the OA with prayer to direct the respondents to release settlement dues and compassionate allowances with 18% interest from the date with all consequential benefits.

2. Respondents did file only a short memo of one page wherein it is stated that vide aforesaid OA applicant has sought directions to release settlement dues and compassionate allowances but the grievances of the applicant has been duly redressed by the respondent authorities. One document Annexure R(1) was enclosed with said memo showing

that case of applicant was processed and was sent to Accounts on 03.08.2018 and accordingly settlement dues of applicant have been released. This document R(1) shows that pension of applicant commenced from 14.11.2003. The total pension arrears, after deduction of loan amount etc. comes to Rs.9,91,285/- and PPO dated 14.08.2018 was issued.

3. Heard the learned counsel. The matter when came up for hearing yesterday, it was argued by learned counsel for applicant that respondents have since issued PPO dated 14.8.2018 which indicates that pension is payable to the applicant with effect from 14.11.2003, that arrears of said amount was required to be paid by the Bank but the bank has not release the full payment. Learned counsel made grievance that respondent department has not paid the interest on delayed payment and that the bank authorities have also not released the full amount. Counsel for respondents sought time to ascertain whether interest has been paid or not and today she informed that interest has not been paid.

4. So far the alleged act of bank authorities relates, bank is not party respondent in this OA and the applicant if is having grievance against the bank authorities, he may approach the appropriate forum for redressal qua conduct of the Bank. However, as far as respondent department relates it is indisputed that all admissible dues have since

been released and respondent department has instructed the Bank to release the amount. Admittedly, interest has not been paid.

5. Learned counsel for applicant is pressing for interest, she placed reliance on the judgment dated 21.02.2008 of Principal Bench delivered in *K.C. Uttreja Vs. The State of Government of NCT* passed in OA No.1709/2007 and decision of Hon'ble Supreme Court in case titled *S.K.Dua Vs.State of Haryana and Anr.*(2008) 3 SCC 44. In *K.C. Uttreja's* case (cited supra), relied upon by the applicant the Principal Bench of this Tribunal has held that, "it is pertinent to note that in *Vijay L. Malhotra* (supra) the Apex Court not only accorded interest on GIS but also on encashment of leave, gratuity, commuted pension etc., which would on all fours be a binding precedent and would apply to the instant case" and in *S.K. Dua's* case (cited supra), relied upon by the applicant Hon'ble Supreme Court in Para 11 held that if there are Statutory Rules occupying the field, the appellant could claim payment of interest relying on such Rules. If there are Administrative Instructions, Guidelines or Norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in absence Statutory Rules, Administrative Instructions or Guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. For shake of brevity Para 11 is reproduced herein below:-

"11. Having heard the learned counsel for the parties, in our opinion, the appeal deserves to be partly allowed. It is not in dispute by and between the parties that the appellant retired from service on June 30, 1998. It is also un-disputed that at the time of retirement from service, the appellant had completed more than three decades in Government Service. Obviously, therefore, he was entitled to retiral benefits in accordance with law. True it is that certain charge- sheets/ show cause notices were issued against him and the appellant was called upon to show cause why

disciplinary proceedings should not be initiated against him. It is, however, the case of the appellant that all those actions had been taken at the instance of Mr. Quraishi against whom serious allegations of mal- practices and mis-conduct had been levelled by the appellant which resulted in removal of Mr. Quraishi from the post of Secretary, Irrigation. The said Mr. Quraishi then became Principal Secretary to the Chief Minister. Immediately thereafter charge-sheets were issued to the appellant and proceedings were initiated against him. The fact remains that proceedings were finally dropped and all retiral benefits were extended to the appellant. But it also cannot be denied that those benefits were given to the appellant after four years. In the circumstances, prima facie, we are of the view that the grievance voiced by the appellant appears to be well- founded that he would be entitled to interest on such benefits. If there are Statutory Rules occupying the field, the appellant could claim payment of interest relying on such Rules. If there are Administrative Instructions, Guidelines or Norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in absence Statutory Rules, Administrative Instructions or Guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. The submission of the learned counsel for the appellant, that retiral benefits are not in the nature of bounty is, in our opinion, well-founded and needs no authority in support thereof. In that view of the matter, in our considered opinion, the High Court was not right in dismissing the petition in limine even without issuing notice to the respondents.”

6. Indisputedly, there is undue delay on the part of the respondents and therefore the applicant is entitled to interest. To ascertain what rate of interest shall be justified this fact cannot be lost sight that applicant was also not vigilant to agitate his case at threshold and he once on 08.07.2004 vide Annexure A/4 requested the DRM(E) to grant compassionate allowance and the authorities vide Annexure A/5 (dated 12.08.2004) advised to contact E/Settlement Section but applicant thereafter slept over the matter and made representation (Annexure A/6)

only on 15.11.2013. He filed the instant OA in December 2017. So taking in view the overall entirety, it is directed to pay interest at the rate of 6% per annum, for delayed payment be made within three months from the date of receipt of a copy of this order.

With aforesaid observation and direction OA stand disposed of. Pending MA/MAs, if any also stand disposed of.

(M.C. VERMA)
MEMBER (J)

SKV