



Central Administrative Tribunal
Principal Bench

O.A.No.384/2003

New Delhi this the 12th day of April, 2004.

Hon'ble Shri Shanker Raju, Member(J)

Bhagwat Prasad Tyagi
S/o Late Shri B.S. Tyagi
R/o D-134, South Ganesh Nagar
Delhi-92.

... Applicant

(By Advocate:Shri R.K. Shukla)

versus

Union of India, through

1. The General Manager,
Northern Railway Hqrs.
Baroda House,
New Delhi.
2. The General Manager (P)
Northern Railway Hqrs.
Baroda House,
New Delhi.
3. Chief Medical Director
Northern Railway Hqrs.
Baroda House,
New Delhi.

... Respondents

(By Advocate: Shri Rajinder Khatter)

Order(Oral)

Heard the parties.

2. The claim of applicant is for interest on delayed retiral benefit. On the date of superannuation i.e. 31.5.2000 applicant was involved in a corruption case lodged by CBI. He was given benefit of doubt and was acquitted of the charges by the Special Judge on 2.4.2002. This fact was brought to the notice of respondents on 18.6.2002. Thereafter, respondents worked out the retiral benefit of the applicant and paid

substantially the retiral benefits including gratuity
mutation and other benefits except leave salary which
been paid to him on 3.2.2002.

3. It is contended by the learned counsel of applicant that as sanctioned was wrongly accorded applicant was falsely implicated and all his acquittal it will relate back to the date of superannuation and in that event he would entitled to payment of retiral benefit immediately after retirement within the permissible period and delayed payment would be attributable to respondents which warrants interest. He relied upon the decision of Apex court in D.V. Kapoor vs. UOI to contend that gratuity can be withheld only on a misconduct of grave nature and pecuniary loss. As on acquittal the condition precedent has not been met, withholding of gratuity etc. is illegal and applicant is entitled to interest.

4. On the other hand respondents counsel referring to Rule 9 (10) of Railway Service Pension Rules, 1993 states that in case a judicial proceeding in criminal case is pending not only the gratuity but also leave encashment etc. can be withheld and be paid only after the Railway servant has been exonerated. Immediately on receipt of decision of the Special Judge, applicant's retiral benefits have been processed and paid to him in November, 2002. Earlier his leave salary was disbursed to him. He states that interest would entail only if there is an inordinate delay attributable to respondents. As delay was bonafide explained and was on

account of administrative exigency where claim of applicant was processed on receipt of the decision of trial court, the OA is liable to be dismissed.

5. On careful consideration the rival contentions I am of the considered view that all delays do not entail interest. It is the delay which is intentional attributable to the respondents entitles a retired employee to have interest on his retiral benefits. The leave encashment was paid to applicant prior to his acquittal in the month of February, 2002. As applicant was acquitted in April 2002 before that under Rule 9(10) of the rules there was no occasion for the respondents to release retiral benefits except provision pension which he was drawing.

6. As immediately on receipt of the judgment by the trial court respondents have processed the retiral benefit and ultimately disbursed the amount in November, 2002 which does not constitute unreasonable delay on the part of the respondents.

7. In this view of the matter, I do not find any justification for awarding interest to applicant on retiral benefits. OA is accordingly dismissed. No costs.

S. Raju
(Shanker Raju)
Member (J)