(2023) 04 CAT CK 0012

In the Central Administrative Tribunal

Case No : Original Application No. 48 Of 2015

Rahey Shyam Parashar APPELLANT

Vs

Union Of India And Others RESPONDENT

Date of Decision : 06-04-2023

Acts Referred:

Railway Services (Pension) Rules, 1993 — Rule 87

Citation : (2023) 04 CAT CK 0012

Hon'ble Judges : Om Prakash VII, Member (J)

Bench : Single Bench

Advocate : R.K. Dixit, Ajay Kumar Rai

Final Decision : Disposed Of

Judgement

Om Prakash VII, Member (J)

1. Shri R.K. Dixit, learned counsel for the applicant and Shri Ajay Kumar Rai, learned counsel for the respondents are present.

2. Through this OA the applicant seeks the following reliefs:-

"i. This Hon'ble Tribunal may graciously be pleased to issue a writ of mandamus directing the respondents to make payment due interest of Rs. 18% per annum against the amount Rs. 558681/- paid on 19.02.2013.

ii. This Hon'ble may graciously be pleased to award compensation of Rs. 50,000/- for delay on harassment caused due to non payment of his DCRG in order to compensate, for undue harassment done by the respondents to a physically handicapped Railway employee for the last about one year.

iii. any other writ, or direction which this Hon'ble Tribunal may further pass order or direction as deem fit and proper in the interest of justice.

iv. Award the cost of application in favour of the applicant".

3. Learned counsel for the applicant states that the applicant retired on

31.01.2012. DGRC was paid to the applicant on 19.02.2013. No interest was paid to the applicant. Refereeing to the Railway Services (Pension) Rules, 1993 rule 87, learned counsel for the applicant further argued that maximum period provided in it for payment of DCRG is three months, if payment is delayed on part of the department, there is clear provision for payment of interest. Thus, he argued that OA be allowed, respondents be directed to pay the interest on the delayed payment of the DCRG.

4. For ready reference rule 87 of the Railway Services (Pension) Rules, 1993 is quoted below:-

"87. Interest on delayed payment of gratuity: -

(1) In all cases where the payment of gratuity has been authorized later than the date when its payment becomes due, including the cases of retirement otherwise than on superannuation, and it is clearly established that the delay in payment was attributable to administrative reasons or lapses, interest at such rate as may be specified from time to time by the Central Government in this behalf on the amount of gratuity in respect of the period beyond three months shall be paid at the rate applicable to State Railway Provident Fund amount in accordance with the instructions issued from time to time:

Provided that the delay in payment was not caused on account of failure on the part of the railway servant to comply with the procedure laid down by the Government for processing his pension papers.

(2) Every case of delayed payment of gratuity shall be considered by the General Manager or Administrative Head of the Railway Unit, as the case may be, and where the said General Manager or Administrative Head is satisfied that the delay in the payment of gratuity was caused on account of administrative reasons or lapse, he shall order for arranging the payment of interest. The powers to pass order for payment of interest on delayed payment of death-cum-retirement gratuity shall rest with General Manager or Administrative Head of the Railway Unit and shall not be delegated to any lower authority.

(3) In all cases where the payment of interest has been ordered, the railway shall fix the responsibility and take disciplinary action against the railway servant or servants concerned who are found responsible for the delay in the payment of gratuity on account of administrative lapses.

(4) If as a result of Government's decision taken subsequent to the retirement of a railway servant, the amount of gratuity already paid on his retirement is enhanced on account of –

(a) grant of emoluments higher than the emoluments on which gratuity already paid was determined, or

(b) liberalisation in the provisions of these rules from a date prior to the date of retirement of the railway servant concerned, no interest on the arrears of gratuity shall be paid.

(5) Gratuity becomes due immediately on retirement and in case of a railway servant dying in service, action for finalising his pension and death-cum-retirement gratuity shall be paid."

5. Learned counsel for the respondents referring to the counter affidavit argued that since "No dues Certificate" was not timely issued by the competent authority due to this reason DCRG payable to the applicant was kept with hold on. As and when the "No dues Certificate" was received payment was made on 19.02.2013. There is no delay on the part of the respondents. Thus, the applicant is not entitled for any interest on the delayed payment. Learned counsel for the respondents in support of his submission referred to para Nos. 6 and 7 of the counter affidavit and prayed that the OA be dismissed.

6. I have considered the rival submission of learned counsel for both the parties and gone through the entire records.

7. In this matter, as is evident from record that the applicant retired from service on 31.01.2012. Three months time is provided in the aforesaid rule for payment of the DCRG. It is also evident from the record that amount of DCRG was paid on 13.02.2013 i.e. beyond the prescribed period provided hereinabove. Grounds for delayed payment taken on the part of the respondents is that "No dues Certificate" was issued belatedly by the competent authority. If this fact itself is taken into consideration then also delay occurred in payment of DCRG amount could be attributed to the respondents itself. There was no delay on the part of the applicant. If such is the position applicant is entitled for interest from 01.05.2012 till the actual payment i.e. 19.02.2013 at the rate of 6% per annum.

8. In view of the above the OA is disposed of with the direction to the respondents to pay interest on the delayed payment of DCRG from 01.05.2012 till the actual payment i.e. 19.02.2013 @ 6% per annum within a period of three months from the date of receipt of a certified copy of this order. No costs.