

(2007) 05 DEL CK 0054

In the Delhi High Court

Case No : Writ Petition (C) No. 23141 of 2005

Shri Satya Bhan Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 17-05-2007

Acts Referred:

Railway Services (Pension) Rules, 1993 — Rule 87

Citation : (2007) 141 DLT 85

Hon'ble Judges : S.L. Bhayana, J; Manmohan Sarin, J

Bench : Division Bench

Advocate : K.K. Patel, for the Appellant; J.K. Singh, for the Respondent

Final Decision : Allowed

Judgement

Manmohan Sarin, J.—Petitioner has filed this writ petition seeking a writ of mandamus directing the respondents to pay interest on the delayed amount of gratuity.

2. Petitioner, who was working as a Railway Gangman, pursued his educational career and finished matriculation examination and also in due course, was promoted as Permanent Way Mistri in the grade of Rs. 380-560. Petitioner superannuated on 30th June, 2002. He submitted a representation for release of payment of pension, gratuity and other retirement dues together with interest on 9.10.2002. As far as payment of pension and its commuted value and other dues are concerned, the cheque was prepared on 27th June, 2002 i.e. even prior to the date of superannuation. However, with regard to gratuity, a "No Demand Certificate" was required to be issued by the Chief Administrative Officer (Construction) Northern Railway, Kashmeri Gate, Delhi where the petitioner had last served. This "No Demand Certificate" was issued only on 9th July, 2004. The respondents thereupon claim to have processed the payment of gratuity immediately and arranged for its payment by 23rd July, 2004.

3. Learned Counsel for the petitioner submits that the payment of gratuity was

delayed for a period of two years for no fault of the petitioner who had completed all the formalities on his part. Petitioner, Therefore, claims interest.

4. Rule 87 of the Railway Services (Pension) Rules, 1993 provides that if after authorisation payment of gratuity is delayed beyond three months, interest is payable at such rates as may be specified by the Central Government in this behalf on the amount of gratuity. There is a Railway Board's decision covering those cases where payment of gratuity is delayed and it results in payment of penal interest at the rate applicable to GPF deposits at 12% p.a. compounded annually. There is the further requirement of fixing responsibility and to recover the amount of interest from the concerned dealing official.

5. We may also notice at this stage the provision in Memorandum No. E(F)/III/2002/PN1/17 dated 27.6.2002 providing for payment of interest in cases of delayed payment of gratuity at the rate applicable to SRPF. The prescribed rate for the financial year 2002-03 when the cause of action in the present case arose is 9%.

6. Learned Counsel for the respondents while opposing the application for payment of interest submits that the respondents were not at fault since they had duly processed the case for pensionary benefits which were released even before the date of superannuation. Even gratuity payment was processed within a month of "No Demand Certificate". Hence, no negligence could be attributed to them. It was the non-receipt of "No Demand Certificate". This was required to be issued and obtained from different departments where the petitioner had worked. This took considerable time.

7. We find that interest varying from 9% to 12% has been awarded on the delayed payment of gratuity as per under-mentioned judicial pronouncements.

8. Reference may be invited to G.S. Vohra v. Chairman, FCI 2004 (113) DLT 829 , where the Court awarded interest at the rate of 12% per annum. In Central Coalfields Ltd. Vs. Union of India (UOI) and Others, , the Supreme Court allowed interest at the rate of 12% per annum. In Bal Kishore Mody v. Arun Kumar Singh and Ors. JT 2000 Supp SC 86, interest at the rate of 15% per annum was allowed.

9. Considering the circumstances of this case, where the pensionary and other benefits were duly paid and the delay occurred on account of the petitioner having served in different departments prior to his retirement and from where the "No Demand Certificate" had to be obtained. In our view, ends of justice would be met in awarding interest at the rate of 9% per annum on the amount of Rs. 1,64,790/- from 1st October, 2002 till the payment of payment i.e. 23rd July, 2004. The above rate is also the prescribed rate as per Memorandum No. E(F)/III/2002/PN1/17 dated 27.6.2002 for the relevant financial year 2002-2003. The same is acceptable to the petitioner's counsel. The respondents would pay the interest within six weeks from today.

10. The writ petition is allowed in above terms.