

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5167 of 2016

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1. The Union of India through the General Manager, East Central Railway, Hajipur, District- Vaishali (Bihar).
 2. The Divisional Railway Manager, East Central Railway, Danapur, P.O- Khagaul, District- Patna- 801105 (Bihar).
 3. The Senior Divisional Operating Manager, East Central Railway, Danapur, P.O- Khagaul, District- Patna 801105 (Bihar).
 4. The Senior Divisional Personnel Officer, East Central Railway, Danapur, P.O- Khagaul, District- Patna 801105 (Bihar).
 5. The Senior Divisional Financial Manager, East Central Railway, Danapur, P.O- Khagaul, District- Patna 801105 (Bihar).

.... Petitioners

Versus

1. Bhuneshwar Prasad, Son of Late Ram Nath Prasad, Ex- Mail Guard, E.C. Railway, Jhajha, resident of Mohalla/PO/PS- Nawada, Arrah, District- Bhojpur- 802301 (Bihar).

.... Respondent

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Appearance :

For the Petitioner/s : Mr. Bijoy Kumar Sinha, Advocate

For the Respondent/s : M/S M.P.Dixit, S.K.Dixit & Sanjay Kumar Choubey,
Advocates

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

and

HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

Date: 22-12-2016

Heard learned counsel for the petitioner-Railway and
learned counsel for the sole respondent.

The writ application has been filed for quashing the order
dated 23.12.2014 passed in O.A.No. 113 of 2013 by the Central
Administrative Tribunal, Patna Bench by which, inter alia, it has been
directed that the ends of justice shall be met if interest @ 8% (simple)
on the withheld retiral dues to the applicant is paid from the filing of



O.A., i.e., 18.2.2013 or say 1st March, 2013 till the date of actual payment.

Learned counsel for the petitioners submits that challenge to the order is only with regard to the interest awarded, which, according to learned counsel, is not justified in view of the finding of the Tribunal itself that since it was the applicant-respondent who was representing on various courts during the pendency of the disciplinary proceedings, it cannot be said that the respondents-petitioners are solely responsible for the delay in conclusion of the disciplinary proceeding against the applicant. It is thus submitted that the respondent being equally responsible for the delay in conclusion of the disciplinary proceeding, interest could not have been awarded by the Tribunal for the delayed period.

Learned counsel for the respondent seeks to rely upon the provisions of Rule 87 of the Railway Pension Rules, which provides that if the payment of gratuity has been authorized after three months from the date when its payment became due on superannuation and it is clearly established that the delay in payment was attributable to administrative lapse, 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.

It is further submitted by learned counsel that the enquiry



report itself was submitted on 31.10.2013, in which the respondent was exonerated, but the disciplinary authority sat over the matter and passed the final order only on 24.7.2014, which is completely unjustified.

On a consideration of Rule 87 of the Railway Pension Rules it is evident that there is liability for payment of interest on gratuity if the same is not paid within a period of three months from the date of retirement of a Government servant provided the default has occurred solely on account of the administrative lapse of the Railway Administration. There being a clear finding recorded by the Tribunal that the applicant-respondent was equally responsible for causing the delay, there could not have been such direction to pay interest in terms of Rule 87 at the rate of 8% (simple) from the date of filing of the O.A., i.e., 18.2.2013.

In our view, the only laches on the part of the Railway Administration was after the filing of the enquiry report on 31.10.2013, by which the applicant-respondent had been exonerated from all the charges, and at the very least thereafter the enquiry proceedings ought to have been concluded within a period of two months thereafter. Any further delay is unjustified. Thus, we are of the view that the applicant-respondent would be entitled to interest on gratuity only from 1st January, 2014.



The writ application is, accordingly, partly allowed and the impugned order dated 23.12.2014 of the Tribunal is modified to the extent that the interest shall be paid at the rate of 8% (simple) on the withheld DCR gratuity only from 1st January, 2014 till the date of actual payment.

(Ramesh Kumar Datta, J)

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(Arun Kumar, J)

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