

Jvs.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 15599 OF 2022

Hari Pal Singh	}	Petitioner
Versus		
Union of India, through General	}	
Manager, Central Railway & Ors.	}	Respondents

JAYANT
VISHWANATH
SALUNKE

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Mr. Samir Singh for the petitioner.

Ms. Sangeeta Yadav for the respondents.

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.**

DATE: 8th APRIL 2024

P.C.:

- 1.** Heard Mr. Singh, learned counsel for the petitioner and Ms. Yadav, learned counsel for the respondents.
- 2.** By instituting the proceedings of this petition under Article 226 of the Constitution of India, the petitioner, who is a retired Railway employee, seeks to assail the judgment and order dated 26th April 2022 passed by the Central Administrative Tribunal, Mumbai Bench, Mumbai (hereafter referred to as "the Tribunal"), whereby Original Application No. 719 of 2019 filed by the petitioner has been rejected on the ground that the prayers made therein were barred by principle of *res judicata* as the same stood adjudicated earlier by the Tribunal vide judgement and order dated 5th September 2018 passed in Original Application No. 10 of 2013.

3. As observed above, the petitioner is a retired Railway employee and for certain post retirement dues, he instituted Original Application No. 10 of 2013, wherein one of the prayers made was, *"to direct the respondents to settle the retirement dues afresh revising his basic pay including DCRG amount with MACP benefits with interest"*.

4. From a perusal of the aforesaid prayer clause in Original Application No. 10 of 2013 filed by the petitioner earlier, it is clear that apart from making a prayer for seeking a direction for payment of amount of Death-cum-Retirement Gratuity (DCRG), he had also prayed for such payment with interest.

5. The said Original Application was finally disposed of by means of an order dated 5th September 2018 passed by the Tribunal with a direction to the respondents therein to consider and settle the payment of DCRG as admissible according to the Rules and Instructions.

6. Pursuant to the said order dated 5th September 2018, the petitioner is said to have received on 3rd January 2019 the payment pertaining to DCRG in his bank account. However, it is the case of the petitioner that though Rules permit payment of interest in case of delayed payment of DCRG, but in compliance of the earlier order of the Tribunal dated 5th September 2018, no interest was paid.

7. It is in the aforesaid circumstances that he filed Original Application No. 719 of 2019 with the prayer that a direction be issued to the respondents to grant interest on the delayed payment of DCRG as contemplated in section 7(3A) of the Payment of Gratuity Act, 1972 and Rule 87(1) of the Railway Service (Pension) Rules, 1993.

8. The Tribunal considered the prayer made by the petitioner in Original Application No. 719 of 2019 and has dismissed the same by observing that in the earlier Original Application No. 10 of 2013, the petitioner had made a prayer seeking direction for payment of DCRG with interest and the said Original Application was disposed of with a direction to the respondents to pay the DCRG in accordance with the Rules and accordingly, the prayer for payment of interest stood considered earlier. The view taken by the Tribunal is that once the Tribunal directed the respondents to make payment of DCRG in accordance with the Rules, for payment of interest the petitioner could not have instituted the subsequent Original Application, namely, Original Application No. 719 of 2019.

9. We are in complete agreement with the reasoning given by the Tribunal while passing the impugned judgement dated 26th April 2022 dismissing the Original Application on the ground that the second Original Application would not be maintainable in view of the decision on the earlier Original Application by means of the order dated 5th September 2018. As a matter of fact, if it is the case of the petitioner that he, under the Rules, was entitled for payment of interest on delayed payment of amount of DCRG and interest was not paid, then that may amount to defiance or non-compliance of the earlier judgement of the Tribunal, dated 5th September 2018, however, invoking jurisdiction of the Tribunal with the prayer for payment of interest, in our opinion, was untenable and hence, the Tribunal has rightly not entertained the same by passing the impugned order dated 26th April 2022. If the petitioner had any grievance, with respect to certain alleged deficiency in compliance of the

earlier order of the Tribunal, dated 5th September 2018, he could have instituted appropriate proceedings for contempt, however, even if there was some deficiency in payment, the same would not entitle the petitioner to institute subsequent Original Application for a prayer which stood adjudicated.

10. In view of the aforesaid observations, we find ourselves in agreement with the impugned order dated 26th April 2022. The writ petition is, thus, devoid of merit, which is hereby dismissed.

11. There shall be no order as to costs.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)