

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 2963/2002

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This the 30th day of April, 2003

HON'BLE SH. KULDIP SINGH, MEMBER (J)

Dinesh Chandra Gupta,
S/o late Shri A.P. Gupta,
Asstt. Manager,
RITES Limited, R.E. Division,
Amba Deep Building,
14, Kasturba Gandhi Marg,
New Delhi.Applicant
(By Advocate: Sh. G.D.Bhandari)

Versus

Union of India, through
1. The General Manager,
Central Railway,
Mumbai CST,
Mumbai.Respondents
2. The Divisional Railway Manager,
Central Railway,
Jhansi.
(By Advocate: Sh. R.L.Dhawan)

O R D E R (ORAL)

Applicant who was working in the Central Railway had gone on deputation to Rail India Technical and Economic Services Limited (RITES, for short). He joined RITES on 24.7.98. Thereafter he was absorbed thereon on 24.7.2001. He has filed this OA seeking a direction to the respondents for release of pension, commutation of pension, gratuity and all other ancillary settlement dues to which the applicant was entitled on his deemed retirement on 24.7.2001 with interest @ 24%.

2. Respondents who are contesting the OA submitted that the applicant who was working with the respondents as Section Engineer was relieved on 22.7.98. He joined RITES on deputation. While he was on deputation he has submitted his technical resignation from Railway services

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w.e.f. 24.7.2001 for absorption in RITES. His resignation was accepted by the competent authority and the applicant submitted his settlement papers on 12.1.2002 and after completion of requisite formalities his settlement case was sent to Senior Divisional Accounts Officer, Jhansi for arranging payment of settlement dues. PF dues and Group Insurance amount was released to the applicant on 4.10.2002. The commuted value and leave salary was passed for payment on 18.12.2002. Monthly pension has also said to have been released vide PPO dated 21.11.2002. However, as regards the DCRG is concerned, the respondents submitted that in terms of Rule 15 of Railway Services (Pension) Rules, 1993, Government dues including shortage in stores is recoverable from DCRG. Sr. DEE/G has intimated vide his letter dated 9.12.2002 (Annexure R-1) that the shortage of store in the office of the applicant as per SV Sheet works out to Rs.4,30,410/- and an Inquiry Committee constituting two Railway Officers is being set up to investigate and submit their findings fixing up the responsibility for the deficiencies in stores. After acceptance of the findings of the Committee by the competent authority the payment of DCRG shall be arranged to the applicant.

3. Counsel for applicant contesting this proposition of the respondents submitted that he had handed over the charge to the immediately available Senior Supervisor, namely, Sh. H.S.Sharma on 22.7.98. Thereafter Sh. Hari Om Srivastava, J.E.-I who was on leave and had resumed his duty on 29.7.98 had taken over the charge of stores from Sh. H.S.Sharma. Sh. Srivastava then requested Sr.DEE(G)

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JES and W.A.O. (W) JES for special stores verification since applicant has not handed over the charge to Sh. Srivastava but Sh. Srivastava continued to work on the said post from 29.7.98 to 25.12.99 and during his tenure no store verification had been carried out. He had also neither noted any deficiency nor informed about any deficiency to his higher authorities. Therefore, Sh. A.K. Aggarwal, ADEE(G)/AGC who had conducted an enquiry concluded that the responsibility for the deficiency of SV sheet for the year 1999-2000 dated 25.4.2000/15.9.2000 under reference cannot be put on Sh. Dinesh Chand Gupta, Ex. S.E.(M) AGC (applicant) who had already handed over the store and other charges to Sh. H.S. Sharma, JE-II, Seniormost Supervisor available in the depot on 22.7.98. On the strength of this letter counsel for respondents submitted that enquiry had already been conducted by Sh. A.K. Aggarwal and he had categorically submitted his findings that deficiency cannot be attributed to the applicant and thus instead of releasing the gratuity amount to the applicant respondents are still contemplating to hold a further enquiry.

4. Counsel for respondents also pointed out that there is no procedure to institute enquiry after enquiry. Now they are arranging to hold second enquiry committee which is contemplated to be set up for verification of stores. So Railways cannot be allowed to further linger on the matter and the DCRG amount to which applicant is entitled was withheld by the Railways. Opposing this Sh. Dhawan, learned counsel for respondents submitted that as per Rule 15 of Railway Service (Pension) Rules, Railways have right

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to withhold the gratuity amount as recovered from Govt. dues. Since the findings given by the enquiry committee probably not have been accepted by the competent authority that is why it is being contemplated to set up another enquiry by two Railway officers constituting enquiry committee which will take some time for conclusion of the enquiry and thereafter DCRG amount will be released to the applicant.

5. I have heard the counsel for the parties and given my thoughtful consideration. As regards the rights of the Railway authorities to recover Govt. dues from DCRG as per Rule 15 of Railway Service (Pension) Rules is concerned that is available to Railways. However, Railways have only right to withhold the gratuity amount to recover any Govt. dues but proper procedure has to be followed for withholding the gratuity. Charge of the store is handed over to Sh. H.S.Sharma on 22.7.98 who has handed over the charge to Sh. Srivastava on 29.7.98 and Sh. Srivastava worked on the post upto 25.12.99 and no store verification had been carried out during his tenure more any deficiency was pointed out to him from the higher authorities. Now at this belated stage when ADEE has already completed the investigation and submitted his report and no deficiency has been attributed to the applicant then constituting a committee and holding of another enquiry is not desirable at all. On this plea the Railways cannot withhold the gratuity amount of the applicant. Hence, I find that OA deserves to be allowed. Accordingly, I allow the OA.

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6. As regards the claim of interest on delayed payment of release of PF, Group Insurance and commuted value of pension is concerned, the respondents have submitted that the applicant had submitted his settlement papers on 12.1.2002 so to process the papers I find that all these dues should have been paid at least by 12.4.2002. Since the payment of Group Insurance has been made only on 4.10.2002 and payment of leave salary has been made on 18.12.2002. So respondents are liable to pay interest thereon to the applicant for delay being caused on this account. Hence, I allow the OA. Though the applicant had claimed interest @24%, however, as per Reserve Bank rates I allow interest @9% from 12.4.2002 to the date of payment.

7. As per gratuity amount is concerned, the applicant shall also be entitled to interest from 12.4.2002 till the date of payment. This exercise shall be completed within a period of 2 months from the date of receipt of a copy of this order.



(KULDIP SINGH)
Member (J)

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