

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 638/2001

New Delhi this the 19th day of March, 2001.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Smt. Leelawati S/O Tej Singh and
Legal Representative of Late Tej Ram,
Ex-Chowkidar, Hospital for Mental Deseases,
G.T.Road, Delhi-110094,
R/O 7/68 Gali Yudhister,
Vishwas Nagar, Shahdara,
Delhi-110032.

... Applicant

(By Shri K.P.dohare, Advocate)

-versus-

1. Govt.of NCT of Delhi
through Secretary,
Medical & Public Health,
5, Sham Nath Marg
Delhi-110054.

2. Medical Superintendent,
Institute of Human Behaviour
(Hospital for Mental Deseases),
G.T.Road, Delhi-110094.

... Respondents

O R D E R (ORAL)

Shri Justice Ashok Agarwal :

By the present OA applicant claims payment of gratuity in a sum of Rs.18,391/-. In an earlier OA filed by applicant being OA No.2324/1996 aforesaid claim was also made amongst other claims by applicant. As far as present claim for payment of gratuity is concerned, this is what has been observed in the ~~earlier~~ ^{present} OA :

4.4. That the Hon'ble Tribunal was graciously pleased and allowed the aforesaid O.A. No.2324/96 vide their judgement dated 4.11.1997 (Annexure A-2), with 18% p.a. interest on late payment of G.P.F., Group Insurance, Leave Encashment and Bonus, after 3 months the date of death of her father on 17.10.88. The extract of operating para 7 of

the judgment dated 4.11.1998 is reproduced below :

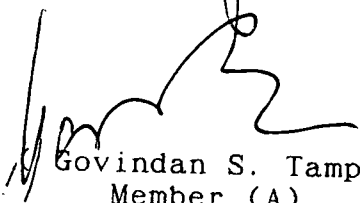
"Para 7

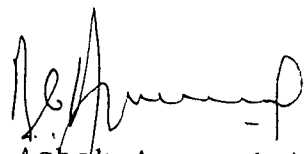
I have carefully considered the submissions. The respondents are entitled to retain only D.C.R.G. for non vacation of the quarter. They have no right to retain the Provident Fund, Group Insurance, Leave Encashment and Bonus. In all fairness the respondents should have informed the widow of the liability she is going to face, if she did not vacate the quarter. But as the law stands, there is no need to give any notice to such an occupant of the accommodation over and above the permissible period as rules governing the occupation are crystal clear. In view of the above the action of the respondents in withholding the gratuity for unauthorised occupation of the quarter cannot be judiciously interfered with. All the same, I find no justification in withholding of other retirement dues. The Hon'ble Supreme Court in the case of O.P.GUPTA vs. UNION OF INDIA & ORS. 1987 (5) SLR SC 288, has approved a rate of 12% interest for the delay in making payment of pension. This is a case of extra ordinary delay and there is an element of absolute indifference and carelessness in making payment to a poor lady for a period of 8 years. I would therefore, direct the respondents to calculate the interest at 18% three months after the death of the applicant's father till the date of actual payment for all amounts, namely Group Insurance, Provident Fund, Bonus, Leave Encashment etc. and pay the same to the legal heirs as per succession certificate within a period of eight weeks from the date of receipt of copy of this order. I would further direct respondent No.1 Secretary, Medical & Public Health, Govt. of NCT of Delhi for conducting an enquiry as to who is responsible for this culpable delay in depriving a poor citizen of her rightful dues for such long period of 8 years and he shall if he is satisfied about the identity of persons responsible for this delay, recover the loss by way of interest to the public exchequer from the salary of such employees. O.A. is disposed of. No costs."

Re. A

2. A decision has accordingly been given in the earlier OA that respondents are entitled to ^{withhold} ~~take~~ the amount of gratuity towards non-payment of occupation charges of the government quarters in possession of applicant. Aforesaid finding has become final and will be binding on applicant. Present OA claiming the very same relief which has been denied in the aforesaid OA, is accordingly barred by principles of res judicata.

3. Present OA, in the circumstances, we find, is devoid of merit. The same is accordingly summarily rejected.


Govindan S. Tampi)
Member (A)


(Ashok Agarwal)
Chairman

/as/