

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.804/96

New Delhi this the 16th October 1996.

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)
Hon'ble Mr V.Radhakrishnan, Member (A)

Shri S.R.Jolly
S/o Shri Sant Ram
Retired as Research Officer
Planning Commission and now
residing at 141-A DDA MIG Flats
Rajouri Garden
New Delhi.

...Applicant.

(Through Advocate Sh. Ramakrishnan)

Versus

Union of India through
The Secretary
Planning Commission
Yojna Bhawan
Parliament Street
New Delhi-110 001.

...Respondent.

(Through Sh.V.K.Mehta, advocate)

O R D E R (Oral)

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

Shri Ramakrishna says that the prayer at sub
para 1 of para 8 of the application is not pressed.

Heard the counsel.

The issue now to be settled is only whether
the applicant is entitled to get interest on Rs.
2960/- which was part of the gratuity withheld by
the Planning Commission purportedly on the ground of
settling the rent due to Himachal Pradesh
Government. The applicant while serving under the
Punjab Government was in occupation of Bhajji's
house. He vacated the accommodation on 1.7.1959. It
appears that subsequent thereto, the Himachal
Pradesh Government acquired the house in question in

the year 1966 and thereafter they unilaterally revised the rent with retrospective effect and made a claim of Rs.2960/- from the applicant who denied his liability. The Himachal Pradesh Government wrote to Planning Commission where the applicant was working at the time of his retirement and on that ground, out of the gratuity of the applicant, a sum of Rs. 2960/- was withheld. Correspondents went on for quite some time between the applicant and the respondent regarding the grant of gratuity which was not paid to him. Not getting the amount due to him, the applicant in 1993 caused a lawyer notice to be issued claiming the amount with interest. Subsequently, a sum of Rs. 2960/- was paid. The applicant's claim is that there was no justification for the respondent withholding the amount and that, therefore, the respondent is liable to pay interest at current market rate at 18% per annum. The prayer now pressed is only for this purpose.

2. Shri V.K.Mehta, learned counsel for the respondent states that the liability to pay interest at current market rate would arise only in case where withholding a part of the gratuity was culpable. According to the learned counsel, as the HP Government have made the claim, the respondent's bonafide ^{believed} ~~is~~ that unless the claim was settled, the amount in full could not be paid to the applicant. After hearing the learned counsel on either side

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and on a perusal of the relevant provisions of the Civil Services Pension Rules, we are of the considered view that the respondent was not justified in withholding a part of the gratuity as nothing that would be ^{considered} sought to be government due was outstanding from the applicant. The rent for the building which the applicant was in occupation by way of a private arrangement while he was not even in the service of the Government of India cannot be under any stretch of imagination a government due.

If only the respondent had taken care to scrutinise the legal position as also the factual position, the respondent would not have withheld this amount. Not doing that, according to us, is culpable. Therefore, we are left with no doubt that the respondent has to be directed to pay interest but the only question is what should be the rate. Shri Ramakrishna states that in ^{the} a case of Padmanabhan Vs. State of Kerala reported in 1985 SCC 429, the Hon'ble Supreme Court has held that in case of culpable delay in payment of retirement gratuity, the employer is to compensate the employee by payment of interest at market rate which in that case ^{was} held to be at 18% per annum. However, in this case, we are of the considered view that the interest of justice would be met if the respondent is directed to pay to the applicant interest on Rs. 2960 at the rate of 12%

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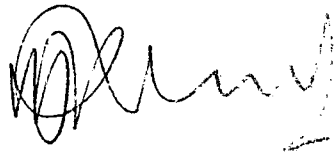
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per annum from 1.4.1993 till the date on which the payment was made to him. The said amount shall be paid to the applicant by the respondent within a period of one month from the date of receipt of this order.

There is no order as to costs.



(V. Radhakrishnan)
Member (A)



(A. V. Haridasan)
Vice Chairman (J)

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