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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.1987 OF 1997

New Delhi, this the 17th day of July, 2003

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.K. NAIK, MEMBER (A)

Dr. N.C. Singhal,
S/o late Shri Lekh Ram,
R/o C-115,
Greater Kailash-I, New Delhi-110048.

....Applicant

(By Advocate : Shri Rajeev Bansal)

Versus

Union of India,
through,
Secretary,
Ministry of Defence,
New Delhi.

.....Respondents

(By Advocate : Shri S. M. Arif)

ORDER (ORAL)

JUSTICE V.S. AGGARWAL:

Applicant (Dr.N.C. Singhal) seeks that respondents should be directed to pay interest @ 18% per annum on the Chinese War Gratuity paid to the applicant ~~but withdrawn~~ from 30.9.1969 to 27.10.1995. He also prays refund of the Second World War Gratuity of Rs.3821/- with interest from 5.3.1980 till the date of refund.

2. Some of the relevant facts are that the applicant had joined the Ministry of Health. He had applied for counting of the service during the Second World War from 14.12.1943 to 10.11.1947 and again from 1.6.1950 to 15.11.1953 for purposes of civil pension. After great persuasion, the same was sanctioned but subject to refund of Second World War Gratuity of Rs.3821/-.

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3. While the applicant was pursuing his case for Chinese War gratuity, he came across two officers, who had also served in the category of Reserved Commissioned Officers and had been given gratuity of Rs.12,000/-. The applicant thereupon had also claimed back Rs.3821/- which he had refunded. The applicant applied to the Union Health Ministry and the same had recommended the case of the applicant. However, the Additional Finance Advisor did not agree to the refund of the amount. Rather the applicant was compelled to give a letter to the effect that he would not claim refund before his gratuity of Chinese War service was sanctioned. The applicant had joined as Reserved Commissioned Officer from 22.1.1963 to 29.9.1969 and he was entitled to gratuity @ Rs.1,000/- per year of service. On release from Army service and returning to his permanent civil post, the applicant applied for gratuity. He was told that he would be paid the gratuity claimed, if he would not claim the interest. He had no alternative and took the gratuity amount recording that he would not claim interest. Applicant claims that he is entitled to the interest because the said fact was got recorded under duress and compulsion.

4. In the reply filed by the respondents, the application has been contested. It has been asserted that the applicant was granted Commission in the Indian Army and he served in two spells, as stated by the applicant. Thereafter he joined Civil Service

LS Ag e

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under the Ministry of Health. The break between the two spells of the ministry service was condoned. He was again called for Army Service from 22.1.1963 to 29.9.1969. It was admitted that the gratuity would be paid had the applicant not demanded any interest. It is denied in the facts that the applicant is entitled to interest claimed.

5. During the course of submissions, the dispute pertained only to the controversy if the applicant is entitled to the interest or not. It is not in dispute that the applicant, as said, had been paid the said amount after great delay.

6. The Supreme Court in the case of R. Kapur Vs. Director of Inspection (Painting and Publication) Income Tax and Another ((1994) 6 SCC 589) referred with advantage to the well known decision in the case of State of Kerala Vs. M. Padmanabhan Nair ((1995) 1 SCC 429) and held :-

"10. This Court in M. Padmanabhan Nair case has held as under:

"Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment.

11. The Tribunal having come to the conclusion that DCRG cannot be withheld merely because the claim for damages for unauthorised occupation is pending,

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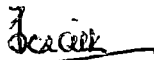
should in our considered opinion, have granted interest at the rate of 18% since right to gratuity is not dependent upon the appellant vacating the official accommodation. Having regard to these circumstances, we feel that it is a fit case in which the award of 18% is warranted and it is so ordered. The DCRG due to the appellant will carry interest at the rate of 18% per annum from 1-6-1986 till the date of payment. Of course this shall be without prejudice to the right of the respondent to recover damages under Fundamental Rule 48-A. Thus, the civil appeal is allowed. However, there shall be no order as to costs."

7. However, in the case of Union of India Vs. Ujagar Lal ((1996) 11 SCC 116) the gratuity was withheld for reasons other than administrative lapse - Where the Railway Board circular directed to withhold death-cum-retirement gratuity till the retired employee surrendered possession of quarters allotted to him. It was in that backdrop the Supreme Court has held that the concerned person was not entitled to the interest. Reverting to the facts of the case in hand, as already pointed above, and re-mentioned at the risk of repetition, there has been delay in payment of the amount. However, the applicant was paid the gratuity and he had given in writing that he would not claim interest on it. It would be difficult to state that it was under duress and compulsion. Be that as it may, it is patent that the applicant himself had not claimed the said gratuity immediately. He specifically admits that it was subsequently that he realised that he was entitled to the said amount and he submitted the representations. Once it was so, it is not difficult to conclude in fact that it appears

CS Ag

to say is the only logical conclusion that the matter was examined and it took time to consider whether the applicant was entitled to the said amount or not. Therefore, the present case cannot be put on the same footing as in the case of M. Padmanabhan Nair (supra) that the applicant would be entitled to claim the interest.

8. In the peculiar facts, taking stock of the totality of the matter, the application, therefore, being without merit fails and is dismissed.


(S.K. NAIK)
MEMBER (A)


(V.S. AGGARWAL)
CHAIRMAN

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