

FORM NO. 2

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

SB/DB SB

REPORT ON THE SCRUTINY OF APPLICATION

Diary No. 1512

Presented By : B. Krishan Date of Presentation 2.5.2002
 Applicant (s) R.B.L Gupta Group : N.B.Y.
 Respondent (s) C.O.V. J.M.C.T
 Nature of grievance : Retired benefit
 No. of applicants : One No. of Respondents : 2

तारीख २५.५.२००२
 दस्तावेज़ की तिथि
 राज्य न्यायालय
 दस्तावेज़ की तिथि १५/५/००
 दस्तावेज़ की तिथि १५/५/००

CLASSIFICATION

Subject : Retired benefit (No. 28) Department : N.C.T. (No. 1) * if S.B.

1. Is the application is in the proper form? (PROFORMA / COMPILATION) Yes
2. Whether name, description and address of all the parties been furnished in the cause title? Yes
3. (a) Had the application been duly signed and verified ? (SIGNED / VERIFIED) Yes
3. (b) Have the copies been duly signed? Yes
3. (c) Have sufficient number of copies of the application been filed? Yes
4. Whether all the necessary parties are impleaded? Yes
5. Whether English translation of documents in a language other than English or Hindi been filed? Yes
6. (a) Is the application in time? (See Section 21) Yes
6. (b) Is MA for condonation of delay filed? Yes
7. Has the Vakalatnama/Memo of appearance/00 authorisation been filed? Yes
8. Is the application maintainable? (u/s 2, u/s 14, u/s 18) (u/s 2,14,18 or U/R 6 etc). U/R 6, PT u/s, 25 file
9. Is the application accompanied by IPO/DD for Rs. 50/-? Yes
10. Has the impugned orders original/duly attested legible copy been filed? LEGIBLE/ATTTESTED

DA 15/1/2000

11. Have legible copies of the annexure duly LEGIBLE/ATTESTED attested been filed ? ✓

12. Has the index of documents been filed and pagination done properly ? ✓ FILED/PAGINATION

13. Has the applicant exhausted all available remedies ? Yes

14. Have the declaration as required by item 7 of Form-I been made ? No

15. Have required number of envelopes (file size) bearing full address of the respondents been filed ? No

16. (a) Whether the reliefs sought for, arise out of single cause of action ? No

(b) Whether any interim relief is prayed for ? Yes

17. In case an MA for condonation of delay is filed, is it supported by an affidavit of applicant ? No

18. Whether this case can be heard by Single Bench ? Yes

19. Any other point ?

20. Result of the scrutiny with initial of the Scrutiny Clerk.

The application is in order and may be registered and listed before the Court for admission/orders on;

(a) MA for joining U/R (5) (a) / 4 (5) (b)
(b) MA U/R 6 of CAT Procedure Rules, 1987
(c) PT u/s 25 under At Act
(d) MA for condonation of Delay;

OR

The application has not been found in order in respect of Item No(s) mentioned below :

(a) Item Nos. 11
(b) Application is not on prescribed size of paper.
(c) MA U/R 4(5)(a) / 4(5)(b) has not been filed.
(d) Application /counsel has not signed each page of the application/documents.
(e) MA U/R 6 has not been filed.

The application might be returned to the applicant for rectification of the defects within 7 days.

SCRUTINY CLERK

SECTION OFFICER

DR(J)
JOINT REGISTRAR

COURT NO. DATE

3/8/2000

X 620

reference objection (a) above.

Pages from 26 to 34 & 42 to 44 have been withdrawn and page 63 has been replaced and renumbered as 51.

4/8/2000

SB DB

✓
SB

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

ORIGINAL APPLICATION NO. 1511/2000

SHRI/SMT. R. B. L. Gupta .. APPLICANT

VERSUS

.... Govt. of NCTD and others .. RESPONDENT

This application has been submitted to the Tribunal by
Shri/Smt. B. Krishan under Section 19 of
the Administrative Tribunal Act, 1985 and the same has been
scrutinised with reference to the points mentioned in the
Administrative Tribunal Act, 1985 and Procedure Rules, 1988.

The applicant has also filed a Misc. Application(s)
regarding (a) jurisdiction (b) joining (c) condonation of delay
and/or (d) Petition for Transfer. MA U/R 6 of CAT Procedure
Rules, 1987.

The application has been found in order and may be
listed in Court for admission/orders.

S.O. (Listing)

D.B. (J)

JOINT REGISTRAR

SB
9/8/2000
X 9.8.2000

to
10-8-2000

COURT NO. SB

DATE

11/8/2000

(SBDB)

{
WVR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI
NO.OA /2000

N THE MATTER OF: 1511

SHRI R.B.L. GUPTA APPLICANT
(BY B. KRISHAN, ADVOCATE)
VERSUS
GOVT. OF N.C.T.DELHI ANOTHER RESPONDENTS
INDEX

SL.NO.	PARTICULARS	PAGE NO.
1.	MAIN ORIGINAL APPLICATION UNDER SECTION 19 OF THE A.T. ACT, 1985	1-7.
2.	ANNEXURE A-1 Statement of the applicant showing Chronicle of events and brief grievance With relevant enclosures.	COMPILATION -II 3-55 54 3.
3	Vakalatnama	55.
4	Postal Order of Rs. 50/-	Reply by 2-55-61 written statement by 2-1 62-80

(B. KRISHAN)

COUNSEL FOR APPLICANT

Dated, the 28th July, 2000
28/7/2000.

D-27, Ajay Enclave, New Delhi-18

1512

COMPILATION-I

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI

NO.OA /2000

IN THE MATTER OF: 151

Shri R.B.L. Gupta son of Shri Pyare Lal Gupta,
Retired Voluntarily as Vice Principal from
Government Boys Senior Secondary School,
Badar Pur, New Delhi under the Government of NCT, Delhi

APPLICANT

1. Government of National Capital Territory of Delhi Through
Director of Education,
Directorate of Education, Govt. of NCT, Old Secretariat,
Civil Lines, Delhi- 110 007.
2. The Director of Estates,
Directorate of Estates,
4th Floor "C" Wing, Nirman Bhavan,
New Delhi- 110 011.

RESPONDENTS

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDERS AGAINST WHICH THE APPLICATION HAS BEEN MADE.
 - (A) The applicant is having a cause of action against the respondents in the matter of delayed payment of retiral benefits including pension, gratuity, provident fund etc. since the date of his voluntary retirement of the applicant with effect from 01.08.1988.
 - (B) The applicant is also assailing the inaction on the part of the respondents in the matter of non-fixation of pay of the applicant in accordance with the recommendations of the Fifth Pay Commission and in the consequential increase in the pensionary benefits to the applicant effective from 1.1.1996
 - (C) The applicant is also assailing the illegal recovery effected from the salary and D.C.R.G. of the applicant on account of damages in respect of the government residence which remained in his possession during the period of his service under the Government of N.C.T., Delhi. A chronicle of events and details of grievances of the applicant are detailed in the Annexure A-1 which may also please be read as part of this application.



2

2.

JURISDICTION

The applicants declare that the subject matter of the orders against which the application has been made is within the jurisdiction of this Hon'ble Tribunal.

3.

LIMITATION

The applicants further declare that the application is within the time limit prescribed under Section 21 of the Administrative Tribunals Act, 1985. The cause of action is recurring one.

4.

FACTS OF THE CASE.

4.1 That the applicant has retired voluntarily from Delhi Government service while working as Vice Principal with effect from 1st August, 1988 from Government Boys Senior Secondary School, Badar Pur, Delhi under the Directorate of Education, Delhi.

4.2 That the applicant has been constrained to assail the action and in-action of the respondents by moving this Hon'ble Tribunal.

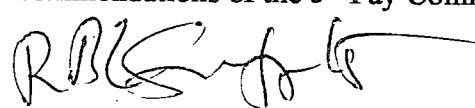
4.3 That right from the date of his promotion as Vice Principal with effect from 26.9.1986 the applicant has been requesting the respondents No. 1 to fix his pay in accordance with rules then in vogue. The applicant has been representing for further fixation of his pay in accordance with the recommendations of the Fifth Pay Commission. But unfortunately his pay has not so far been fixed. That the respondents No. 1 are under an obligation at least to grant full pension to the applicant in order to survive and to support his family members. The applicant has no other source of earning and is entirely dependent upon his pension from the government. Hence they are liable to be called upon to immediately release his full revised pension during the pendency of the present application.

4.4 That in terms of the recommendations of 4th Pay Commission and the 5th Pay Commission the respondents did not take any steps towards settlement of the retiral dues favouring the applicant. The contents of the various representation attached to the Annexure A-1 may also please be read as part of this application as the same are not being reproduced herein

R B Singh

for the sake of brevity. In this connection it is submitted that the applicant specifically assailed the levy of damages to the extent of Rs. 71,393/- demanded by the respondent No.2 out of which a considerable amount has already been with-held and adjusted by respondents without following the process of law as envisaged under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. This aspect has not been earlier adjudicated upon by any court of law.

- 4.5 That the respondents accorded sanction for payment of Gratuity and Commutation of Pension for the first time on 6.2.1997 after a gap of about nine years. But did not take any action for sanction of pension etc. in terms of the revision in pay scales as recommended by the 5th Pay Commission.
- 4.6 That when nothing was done by the respondents in terms of the recommendations of the 5th Pay Commission the applicant specifically agitated the matter by saying that his pension from 1st January, 1996 ought to have been fixed in accordance with the revised pay on his promotion as Vice Principal
- 4.7 That the applicant submitted various representations from time to time requesting therein for refund of illegal recoveries made from the applicant on account of damages of government residence. But again to no avail.
- 4.8 That the respondent concerned with recovery of damages in respect of the government residence have failed to show in clear terms what has been deducted from the retiral dues of the applicant which clearly shows that an illegal recovery has been made by them without following due process of law as envisaged under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.
- 4.9 That after patiently waiting for a considerable long time the applicant submitted another representation for release of his final pension in accordance with the recommendations of the 5th Pay Commission



4.10 That the applicant has endeavoured to work out the details of the actionable claim being put forth by him as per details given in the Statements marked as Annexures A-1.

4.11 That the respondents are also under an obligation to fix the pay of the applicant as per the recommendations of the Fifth Pay Commission and this obligation is also liable to be discharged by the respondents without any further avoidable delay.

4.12 That the respondents are also under an obligation to fix pay and allowances of the applicant by giving finality to the matter which cannot be allowed to be put into doldrums for an indefinite period of time. The respondents are further under an obligation to finalize the pension of the applicant and also to release the other retiral benefits like Death-Cum-Retirement Gratuity, Provident Fund, Leave en-cashment etc. Since the respondents have failed to even give full regular pension to the applicant despite a lapse of more than nine years from the date of superannuation they are also under an obligation to pay interest on the total amount of retiral benefits due to the applicant from the date of superannuation till the date of actual payment of all the dues to the applicant alongwith exemplary costs and damages as have been allowed even by the Hon'ble Supreme Court of India in identical matters in the recent past. The applicant is being put to all sorts of harassment for no fault on his part. Moreover instead of referring the matter regarding recovery of damages to the Estate Officer for assessment of damages, if any, the respondents have resorted to illegal recovery from the retiral dues payable to him. Thus putting him to face starvation. The applicant has had been pursuing the matter very diligently from the very beginning of the date of his retirement but to no avail. Hence this application.



5. GROUNDS FOR APPLICATION WITH LEGAL PROVISIONS.

5(a) That the applicant is entitled for all the retiral benefits in accordance with the provisions of relevant Pension Rules as applicable to the case of the applicant.

5(b) That the conduct of the respondents by dilly dallying and leaving the matter to go into doldrums for an indefinite period of time is depracable and they are liable to be called upon to explain the delay. This conduct of non-finalization of the retiral benefits has attracted the criticism under the provisions of Article 21 of the Constitution of India.

5(c) That the impugned orders are based on perverse findings founded on no material whatsoever. The same are further based on conjectures and surmises. Hence the same are liable to be quashed.

5.(d) That the impugned action of the respondents in effecting illegal recoveries from the retiral benefits accrued to the applicant on account of so called damages in respect of the government residence and that too without following the due process of law under the provisions of the Public Premises Act, 1971 is depracable and liable to be questioned.

5(d) That the entire action/in-action on the part of the respondents is against all norms of justice, equity and fair play. It further reflects capricious exercise of power and such powers are liable to be bridled.

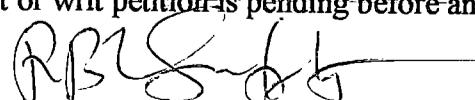
6. DETAILS OF THE REMEDIES EXHAUSTED

The applicants declare that they have exhausted all the remedies available to them

under the relevant service rules.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY COURT.

The applicants further declare that they had not earlier filed any identical application, suit or writ petition before any authority, court or any other bench of the Tribunal for the reliefs claimed in the present application nor any such application, suit or writ petition is pending before any of them.



8. RELIEF SOUGHT .

In view of the facts detailed in para 4 above the applicants seek for the following relief(s):

(I) The respondents may be directed to fix the pay and allowances of the applicant as per the recommendations of the Fifth Pay Commission as applicable to his case.

(II) The respondents may further be directed to treat the period of occupation of the government residence by the applicant as the authorised one and also to charge the normal rent in respect of the said government residence. If at all any amount comes as outstanding on this account that may be directed to be assessed only in accordance with law under the Public Premises Act, 1971 and not otherwise.

✓ (III) The respondents may further be directed to release the final pension, other retiral dues like DCR Gratuity, Provident Fund, Leave Encashment, etc as a result of the revision in pay.

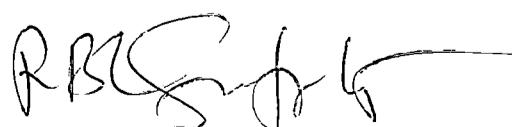
(IV) The respondents may further be directed to pay interest at the rate of 24% per annum over and above the total amount of dues accrued to the applicant from the date of retirement i.e. from 1.8.1988 till the final payment of the said dues alongwith exemplary costs and damages to the tune of Rs. 5,00,000/-

(V) Such other or further orders as this Hon'ble Tribunal may deem fit and proper may also please be passed in favour of the applicants and against the respondents with costs.

9. Interim relief, if any, prayed for.

During the pendency of the application the applicants seek the following interim relief(s):

That the respondents may please be directed to immediately release the revised pension in terms of the recommendations of the 5th Pay Commission in favour of the applicant forthwith.



10. The application is being submitted in person through Sh. B.Krishan, Advocate. Bar Room, C.A.T. Faridkot House, New Delhi.

11. Particulars of the Post Order filed in respect of the application fee.

No. 103378 dated 28/7/00 issued by Post Office Baroda House Value R.50/- Favouring the Registrar, C.A.T, Principal Bench, New Delhi.

Payable at New Delhi.

12. LIST OF DOCUMENTS

As per Index.



(R.B.L. Gupta)

Dated, the 28th July, 2000

SIGNATURE OF THE APPLICANT

THROUGH

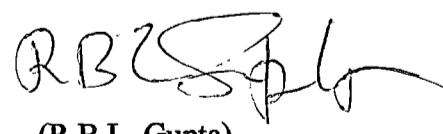


(B.KRISHAN)

COUNSEL FOR THE APPLICANT

VERIFICATION

I, R.B.L. Gupta son of Shri Pyare Lal Gupta aged about 72 years retired as a Vice Principal from Government Boys Senior Secondary School, Badar Pur, Delhi under the Directorate of Education, Government of N.C.T. and presently residing at Flat No. 36-D, Pocket-I, Mayur Vihar Phase-III, Near Kondli MIG Flats, Delhi do hereby verify that the contents of paras 1,4 and 6 to 12 of the above application are true and correct to our personal knowledge and belief and those of paras 2,3 and 5 of the same are true and correct per-se legal advice received and believed to be true and correct. No part of the same is false and nothing material has been concealed or suppressed therefrom.



(R.B.L. Gupta)

Dated, the 28th July, 2000

SIGNATURE OF THE APPLICANT

Place: New Delhi.

COMPILATION-II ANNEXURE A-1

NECESSARY PARTICULARS

1. Name : R. B. L. Gupta (Ram Baboo Lal Gupta)

2. Father's Name : Late Sh. Pyare Lal Gupta

3. Residential Address : C/H-29, Kedar Nagar, Agra (U.P.).
C/o Rajesh Kumar Singh
36 D. Pocket-1
Maya Devi, III
M.G. Road
F. flats,

4. Date of Appointment : November, 28, 1962
(As Post Graduate Teacher)

5. Date of Retirement : 01.08.1988

6. Date of Promotion as Vice-Principal : 26.09.1986

7. Category of retirement : Retired voluntaries as Vice-Principal under clause 'K' - F.R.-56 after giving 3 Months Notice.

8. Name of the post held : Vice-Principal, Deptt. of Education Delhi Administration, Delhi.

9. Place of duty at the time of retirement : Govt. Boys Sr. Sec. School, Badarpur, New Delhi-110044 (Delhi Admn.).

10. Date of Birth : January 5, 1934

11. Date of Submission of the pension papers in the school : August 4, 1988

12. Investigation at school : Sept., 22, 1988 — level completed

13. Date of onward submission of the papers to the DDE South for further action : June 12, 1989

13. Date of return of the papers back to the school unprocessed (From G.O.C.) (Gazetted Officers' Cell) Deptt. of Education : April 17, 1996 — ?

14. 14 days Notice for early payment alongwith interest : 01.08.1996

15. Date of payment of Gratuity and commutation : Feb., 6, 1997

16. Date of illegal recovery : Feb., 7, 1997
of 71393/-

17. Date of Pay fixation as Vice Principal : 22-10-91 —

18. Date of Service Verification as Vice Principal : 8-8-96 — contd.... 2/-

This Annexure A-
is the true copy
of the Original document

(B. Krishan) Advocate

69

19. Date of payment of the : April 26, 1997
Arrears of pension
without Interest

20. The claim of a last & settled with notice on = 1-8-96 (Last para of the letter)

21 - 20. Claim of Interest : 01.02.1999
(Last para of the letter
dated 01.08.1996)
to the Secretary of
Education

22 - 21. Reminder No. 1 for the : 15.01.2000

23 - 22. 2nd Reminder for the : 08.07.2000
claim of interest
alongwith compensation
and refund of illegal
recovery of Rs. 71,393/-

24. Date of illegal recovery, 7-2-97
of Rs. 7139/-

25. The 2nd or appeal on 16/12/96
face of record.

26. Right hand.

26. Date of representation
Para - 6.

27. Address in Delhi -
c/o Sh. Rajesh Kumar
Singh
Flat No. D-36, Pocket - J
Phase. 3, Mayur Vihar
(New Kanki Flats)

R. B. L. Gupta, Retd. as Vice Principal on 01.08.1988

1. That I had put in a neat and clean service as Post Graduate Teacher and Vice-Principal, uninterrupted service to the entire satisfaction of my superiors for a period of 25 years 8 months and 3 days w.e.f. November 28, 1962 to August 1, 1988 (Aug., 1988 being a non-working day) and further I sought voluntary retirement after giving 3 months notice as desired under C.C.S. Pension Rule 48A under clause K, F.R. -56 while I was working as a Vice Principal in Govt. Boys Sr. Sec. School, Badarpur, New Delhi-110044, and was relieved on 01.08.1988 - vide Retirement order the the Deptt. of Education

contd... 3/-

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(B. Krishan) Advocate

(10)

NO. F-11/2/88-Edn. /7214-7235, dated July 29, 1988 and the
reliving chit attached.

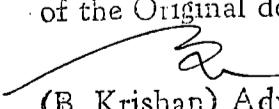
2. Necessary papers (Pension) submitted in the school on 4.8.1988
within the stipulated time (Form 7 at Sr. No. 19).

3. In spite of the fact that the retirement orders are issued
after observing all the formalities including the vigilance
clearance, the school Authorities conducted their own inves-
tigation and as per investigation they issued the following
certificates : -

- i) NO Vigilance or Deptt. inquiry pending.
- ii) That all cuttings and over writings in the Service
Book have been attested.
- iii) NO duplicacy or over writing of verifications of
services in the entire Service Book.
- iv) That the periods of entire service w.e.f. 28.11.1962
to 25.09.1986 is verified with pay bills and other
necessary records. No period left unverified. The
Period of 1 Year 11 month and 6 days as Vice-Principal
left to be verified by the DDE South (Defence colony,
New Delhi), as per Annual Verifications in the Service book.
- v) FORM NO. 24 (Service Verification Certificate) All the 24
instalments of Annual Service Verification in the Service
Book in a continuous process communicated to Form No. 24
as desired under C.C.S. Pension rule 32. The 25th
instalment i.e. the period of service as Vice-Principal
verified on page 35 of the Service Book in October 1996
vol. III. (Right hand corner of the page 35)

Contd. 4/-

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(B. Krishan) Advocate

11

vi) All the Extra-ordinary leaves in the entire service, have been taken on Medical ground.

vii) Sh. Gupta handed over the charge of D.D.O. ship to Smt. Krishan Kumari, Principal, Govt. Girls Sr. Sec. School, Badarpur, New Delhi-110044. And finalising the investigation on 22.09.1988, the Papers were forwarded to the D.D.E. South, Defence colony, New Delhi.

4. In spite of the fact that ^(a) no departmental or criminal enquiry was ever pending and

(b) With no discrepancy ~~exists~~ in my work and conduct.

(c) With no deficiency in my service records.

(d) And in spite of my deteriorated health with several representations and a Number of Personal visits with the pension dealing staff, I was paid my pensconary benefits as late as after a period of 8 years and 9 months :-

i) Gratuity and commutation on 07.02.1997.

ii) Arrears of pension on 26.04.1997.

5. The fact that the cause of delay is attributable exclusively on the part of the Department is unquestioned. The Deptt. has committed serious mistakes on account of its arbitrary action for such a long period is a self evident and self certified fact on the face of the record with 6 documentary Proof and this has resulted in manifest injustice to the undersigned. The proofs are as under :-

Contd... 5/-

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(B. Krishan) Advocate

Document No. 1 :-

That the case remained unprocessed for a period of about 8 years and 3 months. The details of the fact are certified by a documentary proof issued by the competent Authority dealing with the settlement of my pension case at the time and who is also respondent No. _____ and who vide his Letter No. 468, dated 02.11.1996, to the DDE South, Defence colony, New Delhi, himself admitted and certified the following facts :-

- i). The case remained unprocessed for a period of about 9 months w.e.f. 22.09.1988 (The date of finalization of School investigation) to 12.06.1989 (The date of forwarding the papers from School to the D.D.E. South). (Para No. 1 of the document No. 1).
- ii) The case remained unprocessed for a period of about 7 years w.e.f. the date of 12.06.1989 to 17.04.1996 (The date of the receipt of the papers in the school From G.O.C.) ~~.....~~
(Para No. 1 and 2)
- iii) The case remained unprocessed for a period about 7 months w.e.f. 17.04.1996, to October 1996, the period during which the papers from the school were twice sent to the DDE South for necessary action and twice were they returned back to school with the remarks that they are to be settled at the school level only. On account of their inactivity and inefficiency, the school authority attempted to follow a wrong procedure (Para 2 of Document No. 1) monthly for a period of about 6 months, whereas it was hardly a work of 15 days. The school authorities had been demanding vigilance clearance report which was ^{contd.... 6/4/97} ~~not available at this stage~~
- iv) Lethargical progress w.e.f. Nov., 1996 to April 1997 (The date of the payment of arrears of pension) for a period of about 6 months, whereas it was hardly a work of 15 days. The school authorities had been demanding vigilance clearance report which was ^{contd.... 6/4/97} ~~not available at this stage~~

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(B. Krishan) Advocate

v) In para No. 2 (document No. 1) the respondent No. _____ and the competent Authority has further admitted, quoting he own words, "being old and compleated case which would have been processed and finalised Eight years back may at any stage put the school in trouble, with the interpretation as per his statement that :-

(a) The case had been delayed for a period of 8 years on account of no reasons.

(b) The Department has committed a serious wrong as it has taking no appropriate action in the matter for such a long period.

(c) Therefore the competent Authority is guilty conscious and is afraid that the defincincay of action on the part of the Department if further continuous it may give rise to some serious problems to the school and may put the school into trouble.

Document No. 2 :- (Page 33 of Service Book Vol. III)

The pay fixation as Vice Principal done on 22.10.1991 (Date of Promotion as Vice Principal, 26.09.1986) 3 years after retirements.

Document No. 3 :- (Page 35 of Service Book Vol. III, right hand top corner of the page).

Service verification as Vice Principal done on 08.08.1996 approximately 8 Years after retirement. *The respondent No. _____ and the competent Authority has been helped done by _____*

Document No. 4 :- (Page 35 of the Service Book Vol. III) *ca hui* Illegal recovery of Rs. 71,393/-, Rs. 46,875/- (The whole Amount of the Gradutity + 24518/- (Part of the commulation Amount).

contd. . . . 7/-

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(B. Krishan) Advocate



Has been done arbitrarily by the Department in contravention with C.C.S. Pension rules and the decision of the Supreme Court.

The court in M Padammabhan Nair case has held as under :-

"Pension and gratuity" are no longer any bounty to be distributed by the Govt. to its employees on their retirement but have become under the decision of the court valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with penalty of payment of interest at the current market rate "all actual payment". (copy of the ruling attached).

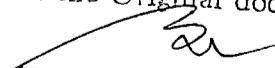
The P.C.R.G. cannot be withheld merely because the claim for damages for unauthorised occupation is pending, should in our considered opinion have granted interest at the rate of 18% per Annum since the right to gratuity is not dependent upon the appellant vacating the official accommodation, we feel that it is fit case in which award of 18% is warranted and is so ordered.

Document No. 5 - 6
Illegal detention of the pension paper along with Service Book by the G.O.C. for a period of about 2 years and 1 month w.e.f. 08.03.1994 to 17.04.1996 (w.e.f. the date of the issue of the order of the Director of Education) to the date of return of the papers back to the school. Despite the orders :-

- 1) Letter of the Director of Education dated 08.03.1994.
- 2) Letter of the J.D.E. Finance, February 1995.

contd... 8/-

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(B. Krishan) Advocate

(15)

6. That the unreasonable action on the part of the Department is certified on the ground that no reasons or any discrepancy as regards my documents or otherwise has ever been pointed out despite my several visits and representations, some of which may be referred to as under : -

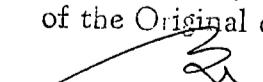
- i) Letter dated 31.08.1989 to the DDE south to settle the case under CCS Pension rule and G.O.D. below rule 59 21 but with no reply.
- ii) Letter dated 16.07.1996 to the Principal demanding the progress of the work done since the date of retirement on 01.08.1988 but with no reply as to progress of work or the reasons if any.
- iii) Letter dated 01.08.1996 for the expeditious settlement of the case but with no reply.
- iv) Reminder dated 14.11.1996 and 21.12.1996 to the letter aforesaid (6.iii), but with no reply.
- v) Letter to the Secretary of Administrative Reforms and copy to the Director and the secretary of Education but with no reply.

7. Letter of the V. I.P's to the Department : -

- i) Letter from the Chief Minister, Delhi State, Dated 12.08.1996.
- ii) From the Minister of Education (Two letters) dated 14.08.1996 and 03.09.1996.
- iii) From secretary Delhi state dated 13.08.1996.
- iv) From the Joint Director A.R. Dated 03.09.1996. Could not liberalise item for expedient action.

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(B. Krishan) Advocate

16

8. ^{10/03} Notice for expedition settlement was also given - vide my letter dated 01.08.1996 (Last paragraph) to the Secretary of Education.

"Under the circumstances your honour is hereby served with a notice to get the things finalised within a period of 14 days failing which a case will be filed in the court of law and the Department will be held responsible for the payment of the cost of suit along the cost of interest multiplying speedily on account of the exorbitant and the compound rates of interest since the date of retirement."

But with no reply as to reason.

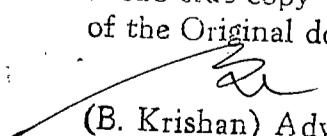
The suit could not be filed on account of the financial crisis all the times.

9. The claim of the interest started with :-

- i) Last para of my representation dated 01.08.1996 referred to in para 8 above. But with no reply.
- ii) Letter dated 01.02.1999, to the Secretary of Education but with no reply till day.
- iii) Reminder to the said letters dated 01.02.1999 above forwarded on 15.01.2000 and also.
- iv) 2nd remainder forwarded on 08.07.2000 alongwith the claim of the for the refund the illegal recovery Amounting to Rs. 71,393/- and claim of monetary compensation on account of breach of fundamental right - Right to life Article - 226 of the constitutions of India but with no fruitful results.

contd. 10/-

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(B. Krishan) Advocate

17

10. That the following entitlements still remain unsettled and unpaid despite several remainders.

- i) Revision of the Pension, gratuity and commutation which has been needed on account of the wrong fixation of qualifying service and wrong pay fixation taken into account. To the best of my knowledge and belief the Pension case has been settled without finalising the 3 documents (a) Service verification certificate FORM No. 24, (b) Average pay certificate, (c) Pension calculation sheet. The presence of Service Book and said certificates in the court will reveal the exact picture and will certainly certify my above statement :-
- ii) Arrears of pay fixation as Vice Principal.
- iii) Leave Encashment.
- iv) Amount of Group Insurance fund.

11. Depression :-

Since the date of my retirement on 01.08.1988 till the payment of the gratuity and the arrears of pension on 26.04.1997, I alongwith my family had passed the period of about 9 years, leading a miserable life on account of financial, physical and mental distress.

Economics Torture :-

- Passing a life in a miserably low standard of living a forced life.
- Deprival of the basis necessary eg. food, clothes and decent living.
- Right type of education to children.
- Deprival of right type of Medical facilities :-

Contd. 11/-

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[Signature]
(B. Krishan) Advocate

(a) MY wife suffered a lot on account of the lack of proper and timely treatment for her stomach trouble, and on account of different types of aches in her body specially in her neck on account of cervical spondilitis, and decrease of her eyesight resulting in the deteriorated health (document proofs).

(b) In the absence of timely treatment and on account of in capability for arrangement of affording money for timely operations, my trouble as regards the kidney and the urater stones, gall stones, enlargement of prostate, urine troubles, and the stomach trouble reached to the extreme resulting in the deterioration in my general health (Documentary proof).

- Deprival of a dignified life and decent environment

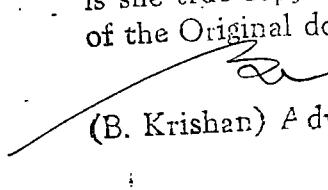
- (a) In the absence of the payment of my retirement benefits all my plans of the economic development of my family were disturbed - very essential for a dignified life.
- MY social and Economic states miserably gone down.
- Marriages with a miserably poor standard.
- MY Parental house in my village fell down due to timely repair.
- Financial crises to the extrens - had economically become bankrupt on account of the payment of the exorbitant and compound rates of interest.

Mental Agony :-

- Miserably poor standard of living, failure of Economic plans and miserably poor Economic and social states for a continuous period had developed a sence of inferiority

contd..... 12/-

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(B. Krishan) Advocate

19

complex in my mind and all the time I remained in a ^{mind} depressed state of ~~mine~~ - How to solve the economic crisis - What to do and what not to do - had to suffer humiliations from the society and also from my family members - Difficulties in arrangement of fooding and clothing - All such innumerable troubles resulting in mental depression.

- Resulted in the further deterioration of my health and the health of my wife and children.

12. As a consequence of the Arbitrary and the unreasonable action of the Pension dealing Authorities of the Department of Education. I had been constantly been deprived of the fundamental rights guaranteed in the constitution of India : -

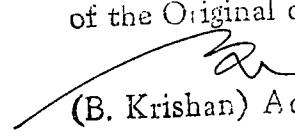
- Right to Equity — Article 14.
- Right to know — Article — 21
- Right to life - Protection of life and personal liberty on account of the lack of fulfilment of essential ingredients of the 3 rights eg.
- Constitutional Right 300 A. Right to Property
^{ingredients} The basic ingredients of the 3 fundamental rights are : -

(a) Arbitrary Action of the Authority (Department of Education) certified by 6 documents (Para 5).

(b) Unreasonable action of the Authorities, certified by the letters as expressed in para 6 and 7. The Action of the Executive must be fair reasonable fair and just. It should not be arbitrary, & unreasonable which has been missing. during the entire period of Settlements

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20

- Article 14, 19 and 21 - Protect against arbitrary and unreasonable actions of the Executive as well as of the judiciary and require the observance of Rule of law.
- Article 21 - Right to life - provide the protection of life - a right to live with dignity.
- Article 21 - Self preservation - Self
- Article 21 and 19(1) (e) - life - component of right to live - right to food, water, decent environment, education, medical care and shelter.
- Article 21 - Right to live includes right not to live a forced life.
- Rules of Natural justice violated - why should I suffer on Account of the wrongs of the others.
- Articles 21 - Speedy trial is an essential ingredient of reasonable fair and just procedure in Article 21.

remained
The fact that the case remained unprocessed for a long period of more than 8 years and 9 months is itself a self evident and self certified proof of a wrong procedure on the part of the Department resulting in the breach of the said fundamental rights.

13. Affidavit :-

14. Illegal harrasement and the basis of petition in the High Court.

Since the date of my retirement till the date of settlement of the pension case, I have never been pointed out by the Department for any deficiency or discrepancy I/R of the documents produced by me or for any other discrepancy whatsoever. Nor was I ever asked to fulfil any additional requirements. I have been unfortunate enough that in this

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SK
(B. Krishan) Advocate

(21)

old Age, I along with my family had been suffering from the torturous and disastrous action continuously done to me by the pension dealing staff due to their arbitrary and unreasonable actions. Had the matter been settled at the appropriate time, I could have positively been saved from the deterioration of my health and the health of my wife and from the mental agony all the time.

But why should I suffer on account of the mistakes of the others? Is it not against the ^{Principle} of Natural Justice? Is it not a case of an established breach of the Fundamental Rights? Is it not the violation of the 'Rule of Law'? Is it not an illegal ~~harrassment~~ for which the Department has all the time remained a distant spectator, when the Executive fails in discharging its obligations under the constitution or the law and deprives the citizens of their social and Economic ⁿ entitlements as well as of the rights and benefits conferred upon them, it is the judiciary who administers the 'Rule of Law' and as such the court must intervene and compel the Executive to carry out its constitutional and legal obligations, and the honourable High Court can in this particular case issue a writ or an order to the respondents for the payment of monetary compensation in addition of the payment of interest as per decision of the Supreme court (ruling attached) by exercising its Jurisdiction under Article 226 of the constitution of India (Article 32 - 226 - 21) which lays down the provision for the payment of compensation under Public Law in addition to the Private Law remedy for torturous action and the punishments to the wrong doers.

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22

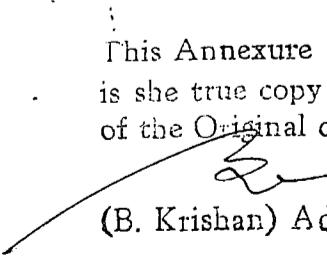
The court can exercise jurisdiction in respect of the following :-

1. Breach of Fundamental rights - article 14, 19, and 21
2. Breach of constitutional Right - Article 300 A
15. In view of the aforesaid facts and circumstances of the case and in the larger interest of the administration of justice and for the enforcement of the fundamental rights guaranteed I pray the Honourable justice to kindly make order for the payment of the following entitlements:-

- i) Payment of interest at the rate of 24% per annum over the amount of gratuity and the Arrears of pension till the dates of their actual payments.
- ii) Orders for the revision of pension in the light of para 10 as on 01.08.1988 and the revision thereof as on 01.01.1996 with the payment of arrears along with interest till the date of their actual payment at the rate of 24% Per annum.
- iii) Payment of the arrears of pay fixation as Vice Principal, Leave Salary, encashments and amount of Group Insurance funds, along with interest at the rate of 24% per Annum till the date of ~~1996~~ actual payments.
- iv) Refund of illegal recovery of Rs. 71,393/- (Para 5 document No. 4)
- v) Monetary compensation for breach of Fundamental right 21, and Article 300 A of the constitution of India,
- vi) Compensation for to and fro expenditure from Agra to Delhi.

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(B. Krishan) Advocate

NO. F.11/2/88-Edn./7214-7235
DELHI ADMINISTRATION:DELHI
(EDUCATION DEPARTMENT)

215-216, Old Secrtt.,

Dated the 29th July, 1988.

23

O R D E R.

Shri R.B.E.Gupta working as Vice-Principal under the Directorate of Education, Delhi Administration, Delhi in the pay scale of Rs.2000-3500 has given notice under clause (K) of F.R.55 to voluntarily retire from Government service with effect from 1st August, 1988(A.N.).

Now the Chief Secretary, Delhi Administration, Delhi is pleased to accord his permission to Sh.R.B.E.Gupta to retire voluntarily from Government service w.e.f. 1.8.1988(A.N.).

(K.K.BHASIN)

JOINT SECRETARY(EDUCATION)

No. F.11/2/88-Edn./7214-7235 Dated the 29 July, 1988.

Copy forwarded for information and necessary action to:-

1. The Director of Education, Delhi Administration, Delhi.
2. The Addl. Director of Education(Admn.), Dte. of Education, Delhi.
3. The Deputy Director of Education, Distt. East/West/North/South, Delhi/New Delhi.
4. The Controller of Accounts, Delhi Administration, Vikas Bhawan, New Delhi.
5. The Accounts Officer concerned through Controller of Accounts, Delhi Administration, Delhi.
6. The Administrative Officer(GOC), Dte. of Education, Delhi.
7. The P.S. to the Chief Secretary, Delhi Administration, Delhi.
8. The P.A. to the Secretary(Edn.), Delhi Administration, Delhi.
9. Officer concerned through Administrative Officer(GOC), Directorate of Education, Delhi.
10. Guard fil.

(K.K.BHASIN)
JOINT SECRETARY(EDUCATION).

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(B. Krishan) Advocate

FATRO*

24

17/9/88

Vigilance Clearance Certificate

This is to certify that no
vigilance or departmental inquiry is
pending against Sh. R. B. L. Gupta
Vice-Principal of this school, D. B. O., Badar

C. S.

Koshni k

22/9/88
D. B. O.
Govt. Boys Sr. Sec. School,
Badar Pur, N. Delhi-110044

SSAR
Principal D. B. O. 17/9/88

Govt. Boys Sr. Sec. School,
Badar Pur, N. Delhi-110044

Attached
Affidavit

Vice Principal
Govt. Boys Sr. Sec. School No. 9
Metairi, New Delhi

Principal
Govt. Boys Sr. Sec. School,
Badar Pur, N. Delhi-110044

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(B. Krishan) Advocate

OFFICE OF THE DEPUTY DIRECTOR OF EDUCATION
DISTRICT SOUTH: DEFENCE COLONY: NEW DELHI
(ACCOUNTS BRANCH)

(A)
65

NO:

To,

DATED:

Vigilance Clearance Report

The Pay & Accounts Officer-I,
R.K. Puram, NEW DELHI.

SUB:

SETTLEMENT OF RETIREMENT BENEFITS - CASE OF
SHRI R.B.L. GUPTA RETIRED VOLUNTARY W.E.F.
01.08.88.

Sir,

The Pension case of Shri R.B.L. Gupta has
been kept pending for want of vigilance clearance.

In this connection, I am directed to say
that Shri R.B.L. Gupta was allowed to retire voluntarily
by the competent authority after observing all the
formalities including vigilance clearance etc. Hence,
no vigilance clearance is required in the case at
this stage.

It is requested that the pension case of
Shri R.B.L. Gupta may please be settled at the earliest
possible.

Yours faithfully,

(MANMOHAN SINGH)
A.A.O
DISTT. SOUTH: DEFENCE COLONY
NEW DELHI.

NO: 45/ACCTS/97

DATED: 31/9/

✓ Copy forwarded to: Shri R.B.L. Gupta, C/H-29,
Kedar Nagar, AGRA.

(MANMOHAN SINGH)
A.A.O
DISTT. SOUTH: DEFENCE COLONY
NEW DELHI.

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(B. Krishan) Advocate

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DIRECTORATE OF EDUCATION : DELHI
(ADMN. REFORMS BRANCH)

Subject:- Decentralisation of maintenance of Service Books
in respect of Gazetted Officers working in
Distts/Units.

In continuation of this Directorate letter
No.F.30-1(2)/93-AR/29589-30589 dated 1.12.93 on the above
cited subject, the cases pertaining to PIC/Leave/Pension/
GPF/LTC/Medical/Pay Fixation etc. in case of Gazetted
Officers would be dealt with as under:-

1. (A) PIC/Leave

S.No.	Item	Category	Sanctioning Authority
(i)	PIC/Leave	Supdt./Vice-Principal of Sr. Sec. School	Principal as Head of Office.
(ii)	"	Supdt. of Sec. School	Vice-Principal as Head of Office.
(iii)	"	Vice-Principal of a Sec. School	D.D.E. of the District as Head of Office.
(iv)	"	Principals/E.O.S./ D.E.Os.	D.D.E. of the District as Head of Office.
(v)	"	A.D.Es./D.D.Es.	Addl. D.E. (Admn.) as Head of Office.

Note:- P.I.C:- The D.D.O. will submit the service verification certificate to the sanctioning authority before issue of the P.I.C.

1. (B) Leave:-

(i) As per the first schedule of C.C.S. Leave Rules, the powers regarding grant of E.L., H.P.L., Commuted Leave, Leave not due, E.O.L. and Maternity Leave in respect of Gazetted/Non-Gazetted Staff upto 90 days are vested with the Head of School and powers for more than 90 days upto 120 days are vested with the D.D.Es. of the Districts.

(ii) As regards grant of special Disability Leave and Study Leave, the powers are vested with the Head of Deptt.

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(B. Krishan) Advocate

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2 ; -

(iii). A certificate regarding leave due would be submitted to the Competent Authority for sanctioning the leave.

2. Pension:-

All cases relating to pension papers duly completed by the concerned Head of Office should be sent to A.O. (Per) alongwith service book who will examine and submit the case to the competent authority.

3. G.P.F. Advance/Withdrawals:-

As regards grant of G.P.F. advance under Rule 12(1) of the G.P.F. Rules, the Heads of Offices can exercise this power and decide the cases at their own level. However, the cases of G.P.F. advance under Rules 12(2) of the G.P.F. Rules and withdrawal under Rule 15 of the G.P.F. Rules shall continue to be submitted by the Heads of Offices direct to A.O. (Cash) as the powers for grant of G.P.F. advance under Rules 12(2) and withdrawal under Rule 15 are vested with the Head of Dptt.

4. L.T.C:-

The powers to grant L.T.C. advance and to finalise LTC claims are also vested with the Heads of Offices. These cases need not to come to A.O. (Cash) and can be disposed off at the level of Heads of the offices.

Medical Claims:-

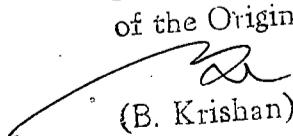
The cases pertaining to gazetted staff be sent to A.O. (Cash) for seeking the sanction of the competent authority.

Pay Fixation/Stepping up:-

The cases of Pay Fixation on promotion or as a result of revision of Pay Scales are to be decided by the Head of Office. However, the cases of stepping up of pay where anomaly has arisen due to application of FR-22-C (Now FR 22-1(A)(i) should continue to be submitted to the A.O. (Pay Fixation) for obtaining the approval of Finance Deptt. through Head of the Department.

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(B. Krishan) Advcc

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28

All the cases will be processed in their offices and would be submitted to the concerned officer for seeking sanction of the competent authority. In no case the Service Book be sent except stepping up and Pension Cases. The entries regarding Leave/PTC/LTC/Pay fixation etc. must be docketed in the Service Book by the D.D.O. concerned.

This issues with the prior approval of the Finance Deptt. vide their U.O.No.2325/Fin.(E-1) dated 17.2.94.

Q1124/2/94

(SHAKTI SINGH)
DIRECTOR OF EDUCATION, DELHI.

No. F.30-1(2)/94-AR/11264-12360.

Dated: 8.3.94

Copy forwarded for information and compliance to:-

1. P.S. to Minister of Development & Education, Govt. of N.C.T. of Delhi.
2. Controller of Accounts, Govt. of N.C.T. of Delhi.
3. Deputy Secretary Finance (Exp.-I), Govt. of N.C.T. of Delhi.
4. D.D.Es. of the Districts, Delhi/New Delhi.
5. D.D.E. (Adult)/Patrachar/TV/Science/Population/Sports/Phy. Edn./Voc. Edn., Delhi/New Delhi.
6. All Heads of Govt. Schools. (Through Districts)
7. All P.A.Cs., Delhi/New Delhi.
8. Admin. Officer (COC-I/II)
9. Accounts Officer (Pension/Audit/Pay Fixation/Cash)
10. President GETA, Room No.221-A, Old Sectt., Delhi.
11. President GETA (SC/ST), Room No. 3, Old Sectt., Delhi.

(P.C.GUPTA)
OFFICER ON SPECIAL DUTY (C&P)

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(B. Krishan) Adv.

31-8-89

To,

The Deputy Director of Education,
(Distt. South)
Defence Colony,
New Delhi.

31 29

Subject: Request for the determination of the amount of pension and other pensionary benefits at the earliest in accordance with the C.C.S. Pension Rules, rule 59(a)(iv), 59(b) i and ii and Govt. of India decision No.1, below rule 21..

Respected Madam,

With regard to the subject cited above I have to state as under:

1. That I sought voluntary retirement from the post of Vice Principal from Govt. Boys Sr. Sec. School, New Delhi under clause K rule 56 of the Government Fundamental Rules on 1.8.1988. Though a period of one year and one month has passed since the date of my retirement yet no decision as regards pay fixation of the period of E.O.L.S. has been taken till today.
2. That the period of my extra-ordinary w.e.f. Feb. 1978 to May 1978 i.e. the period more than 11 years back still remains undecided. During the personal discussions with your dealing Asstt. (ADMN) Shri. Rawat I came to know that even at this late stage letters are being sent to different schools asking them to send their school records to your office for taking decisions for E.O.L periods pertaining to the periods of more than 10 to 18 years back. Though Sh. Rawat has given me full assurance to get the things done speedily yet it may take a pretty long time in receiving the records from different schools, in taking decisions of E.O.L. periods and thereby taking decisions of qualifying service and then the pay fixation and facing with the Accounts Offices and then the final settlement of pension and pensionary benefits. The main obstacle in this process will arise when past records of 10 to 18 years back may not be available in the schools.
For quick settlement of such pension cases dealing with past records C.C.S. Pension rules supported by the procedure prescribed under 'Pension Action Time' a booklet issued from the office of the Controller of Accounts Principal Accounts Office, Delhi Admn, clearly state as under:
 - i) Regarding verification of services Rule 59(a)(iv)
If any portion of service still remains unverified the Govt. servant should be asked to file a written statement on plain paper stating that he had in fact.

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(B. Krishan) Advocate

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rendered that period of service and shall, at the foot of the statement make and subscribe to the declaration as to the truth of that statement and shall in support of such declaration, produce all the documentary evidences and furnish all information which is in his power to produce or furnish. The Head of Office, after taking into consideration the fact in the written statement and the evidences produced and the information furnished by the Govt. servant in respect of the said period of service admit that portion of service as having been rendered for the purpose of calculating the pension of that Govt. servant.

ii) Making good commissions in the service book Rule 59(B) (i) (4)

The Head of Office shall also identify if there are any other omissions, imperfections or deficiencies which have a direct bearing on the determination of emoluments and the service qualifying for pension. Every efforts should be made to make good the omissions, imperfections, or deficiencies. However, any omissions, imperfections or deficiencies including the portion of service shown as unverified in the Service Book which would had been possible to verify in accordance with the procedure as laid down above, shall be ignored and service and qualifying for pension shall be determined on the basis of entries in the Service Book.

iii) Treatment of Extra-ordinary leaves. *Govt of India Decision No. 1, below Rule 21.*

Extraordinary Leave taken on other ground is treated as 'Non-Qualifying and therefore, a definite entry is to be made in the Service Records to that effect. Entries regarding service being qualified or otherwise are required to be made simultaneously with the event. Even where this is not done, it should still be possible to rectify the omission during the period allowed for preparatory action i.e. from two years in advance of the retirement date upto 8 months before retirement. At the end of that period, however (i.e. at the time of the preparation) no further enquiry into past events of checks of past records may be undertaken. Specific entries in the Service records regarding 'Non-Qualifying period will be taken note of and such period excluded from the service. All the spells of Extraordinary Leave not covered by such specific entries will be deemed to be qualifying service.

3. That as desired under C.C.S. Pension rules 59(a) (iv) I hereby attach my written statement and other available material to be utilised as and whenever necessary.

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B.K.
(B. Krishan) Advocate

4. Further that I have been patiently waiting for the settlement of my pension case for a period of more than one year and one month but the patience has its limits. The limit now has been crossed. I cannot wait even for a week now. All my future economic plans which were based on the pension funds i.e. Gratuity and the amount of communication etc. are meeting with an utter failure. My family is starving. If any unusual, undesirable or drastic mishappening takes place in my family or to any member of my family, upon whom will the responsibility be laid down? Ultimately it is the department who will be held responsible for the consequences.

In the light of the above statements and in order to save my family from the drastic consequences your honour is requested to kindly get my pension case settled at your earliest in accordance with the C.C.S. Pension rules and in accordance with the procedure laid down in the 'Pension Action Time' as mentioned in the above paras.

With regards.

Yours faithfully,



(R.B.L. GUPTA)
Retd. Vice Principal
Govt. Boys Sr. Sec. School
Badarpur, New Delhi.
31.8.1989.

Encls: 1. Written Statement
2. 1 Certificate from Govt. Boys. Sec. School,
Mahrauli No.2, Mehrauli, New Delhi.

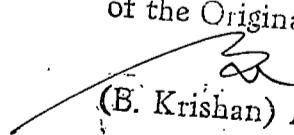
Copy forwarded to: Director of Education, Old Secretariat Delhi,
for information and necessary action.



(R.B.L. GUPTA)
Dated: 31.8.1989.



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(B. Krishan) Advocate

To

The Principal
Govt. Boys Sr. Sec. School,
Badarpur, New Delhi - 44.

Dated: 16/7/

16/7/96

32

Sub: SETTLEMENT OF PENSION, COMMUTATION OF PENSION
GRATUITY, ENCASHMENT OF LEAVE SALARY ETC. I/R
OF SH. R. B. L. GUPTA, VICE PRINCIPAL RETIRED ON
1.8.1983 VOLUNTARILY UNDER CLAUSE K-FR-56

Sir,

Referring to the subject cited above I am to state that necessary papers (in triplicate) for determination of pension and commutation of pension had been received from me in your office and which were duly acknowledged by the Principal/DDO of the school on 22nd Sept. 1988 and which were (2 sets of pension files) onward forwarded by your office to the D.D.E. (South) Defence Colony, New Delhi for further necessary action on 12.6.1989 and received in his office on 19.6.1989. Since the date no letter narrating the progress of work done and also no information as to how the Department has dealt with the pension files from time to time, has been received by the undersigned till day.

By this letter your honour is therefore desired to kindly mention the exact position of work done in the files and also any other progress done in this regard from time to time till day within 3 days of the receipt of this letter in your office failing which it will be presumed that no progress in this regard has been made so far and even today the pension files stand at the same stage of work and in the same position in which they were sent from your office on 12.6.1989.

The information in this regard is desired by a registered post at the following purely temporary address where I shall keep on waiting patiently for the receipt of your letter.
c/o

Sh. J. P. Gupta,
98 B, D.D.A. Flats,
Man Sarovar Park,
Shahdara, Delhi.

Yours faithfully,

RBL Gupt
(R. B. L. GUPTA)

Dated:

16/7/96

RBL Gupt

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(B. Krishan) Advocate

To,

Dated: 14.11.96

The Secretary of Education,
(Delhi A.D.M.N.)
Old Secretariat, Delhi.

~~33~~

33

Sub: Reminder to the application with regard to the settlement of 'Pension' and 'Commutation of Pension' I/R of Sh. R.B.L. Gupta, voluntarily retired as Vice Principal on 01.08.88 from Govt.-Boys Sr. Sec. School, Badarpur, New Delhi- 44.

dated - 1.9.96

Sir,

Your kind attention is invited to the following references :-

Ref. No. 1 Towards the pension papers which complete in all respects were submitted to the DDO/Principal, Govt. Boys Sr. Sec. School, Badarpur, New Delhi-44 within 15 days after the date of retirement i.e. second week of Aug. 1988.

No. 2 Towards my application dated 01.08.96 for 14 days notice to get the pension and pensionary benefits settled addressed to your honour and copies forwarded to all your subordinate officers.

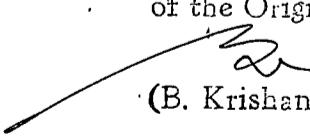
No. 3 Towards my application dated 12.08.96 for settlement of my pension addressed to the Secretary, Administrative Reforms and Personal Grievances - copies forwarded to your office and the office of the Director of Education, Delhi A.D.M.N.

No. 4 Towards the letters of the V.I.P.S. issuing necessary directions to your honour and also to your subordinate officers for taking immediate steps for the early settlements. The letters are as following :-

(i) Letter by the Honourable Chief Minister, Delhi State Old Secretariat, Delhi dated 14th Aug. 1996 (Approximately).

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(B. Krishan) Advoc.

(ii) Letter by the Honourable Education Minister
Delhi Administration, Old Secretariat, Delhi
Dated 15th Aug. 1996. 24

(iii) Letter by the Secretary, Administrative Reforms
and Public Grievances' Sardar Patel Bhawan
New Delhi, dated 13.08.96 addressed to the
Secretary of Delhi State, 5, Alipore Road, Delhi.

(iv) Letter by the 'Secretary' Delhi State, 5, Alipore
Road, Delhi, addressed to the Secretary of
Education Sh. Raghunathan Old Secretariat dated
03.09.96.

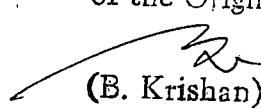
No. 5 Towards the ready reference for your information
and immediate necessary action that all the above
mentioned letters and applications received by
your office after travelling through all your
subordinate officers have been received by the
Education Officer, zone - 25. Defence Colony,
New Delhi about 2 months ago and have been filed
in a separate file dealt with by the dealing
Assistant working under Sh. Bharadwaj, Headclerk
in the office of Eo zone-25, Defence Colony and
my application of 14 days notice dated 01.08.96
is filed by Smt. Lila Tiwari
Room No. 5 Defence Colony, D.D. E. Office,
New Delhi.

In the light of the above references it may be
concluded that:-

(1) That the pension papers still remain unsettled
even after a period of 8 years and 3 months.

(2) And that what of 14 days notice, a period of more
than 3 months has passed since the date of the
issue of notice i.e. 01.08.96 but the department
is still keeping mum as regards the action taken
so far.

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(B. Krishan) Advocate

(3) And further that about 3 months has passed since the issue of the letters of the V.I.P.S. issuing directions to the department but with no fruitful consequence.

✓ 35

Under the circumstances your honour is once more requested that all the above settlements or atleast the provisional pension including the commutation of pension may please at once be settled within a period of 5 days since the date of receipt of this letter in your office failing which it will be presumed that your honour including all your subordinate officers

- (1) The Direction of Education, Old Secretareat, Delhi.
- (2) The Deputy Director of Education, Distt. South, Defence Colony, New Delhi.
- (3) The Education Officer zone-25, Defence Colony, New Delhi.
- (4) and The Principal, Govt. Boys Sr. Sec. School, New Delhi-44.

have all turned a deaf ear to my several repeated requests and notices issued from time to time, and also that the department is still adamant in its behaviour as it has been for the last more than 8 years since the date of my retirement and also that the officers are wholly reluctant towards the Directions issued by the V.I.P.S. and also that the letters of the V.I.P.S. have all been tornout and thrown away by your Deptt, in the waste paper basket.

ADDRESS

C/H-29, Nedar Nagar, AGRA.

Yours faithfully,

RBL
(R.B.L. GUPTA)

Copy forwarded to the following for necessary action:-

Retired on 01.08.88

1. The Director of Education, Old Secretariat, Delhi.
2. The Deputy Director of Education, Distt. South, Defence Colony, New Delhi.
3. To the Education Officer zone-25, Defence colony.
4. The Principal Govt. Boys Sr. Sec. School, New Delhi-44.
5. The Accounts Officer P.A.O. No.1, Sector 1, R.K. Puram

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B.K.
(B. Krishan) Advocate

To,

The Honourable Secretary of Education (Delhi Admn.)
Old Secretariat, Delhi.

Regd/Recd
Dated 21/12/96
148 36

Sub: 2nd reminder to my application for the sanction of pension I/R of Sh. R.B.L.Gupta, Vice Principal Retd. Voluntarily on 1-8-1988 from Govt. Boys Sr. Sec. School, Badarpur, New Delhi-44, and request to Act in accordance with Rule 59(a,b,c,d,) and Govt. of India decision below Rule 21.

Sir,

In reference to my notice dated 1-8-1996 and 1st reminder dated 15th Nov.1996 and also in reference to my application for provisional pension dated 23rd Nov.1996 I have the honour to state that despite my innumerable applications for the settlement of Pension and also the letters of the V.I.Ps i.e. the Cheif Minister Delhi State Honourable Education Minister, Delhi State, Honourable Secretary, Administrative reforms and Public grieavances and pension, Sardar Patel Bhawan and Honourable Secretary Delhi State, 5, Alipur Road issuing directions to your department to get the need ful done immediately and also despite the orders of the worthy Dy. Director of Education (Distt. South) Defence Colony, to the principl (Head of the office) concerned directing him to get the thing settled immediately with the intimation to his office within a week and also despite all directions and instructions of the education officer Zone 25, Defence Colony, New Delhi, the needful has not yet been done though a period of more than 8 years have passed since I sought voluntary retirement.

I am at a loss to understand as to what obstacle has entangled the Head of the Office in forwarding the pension papers to the(A.O.Pension) for the sanction of pensionary benefits and at least the 'Provisional Pension'. All the problems regarding the determination of E.O.L. periods, problem of Int. split spot in the service book, pay fixation etc. have already been settled by the G.O.C. about 6 to 7 years back.

The Head of the Office is once more requested to kindly act in accordance with rule 59 (a,b,c,d,) and Govt. of India decision below rule 21, in the solution of any problem arising in the decision of E.O.L. periods, qualifying service, errors and omission etc.. The G.O.D. below

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(B. Krishan) Advocate

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31

Rule 21 clearly states that all inquiries regarding past events or the part records of the pensioner should have been completed before the date of retirement and no inquiry after that. It is highly regrettable that in contravention with G.O.D., the inquiries into past events are still being conducted even after a lapse of more than 8 years period. (The copy of rule attached herewith).

Even at this last stage any paper or any formality still remains to be completed by me. I may at once be called upon at my address narrated below to get the needful done.

Under the circumstances your honour is once more requested to take necessary steps in this regard immediately under intimation to the under signed on the following address.

Yours faithfully,

R.B.L. GUPTA

R.B.L. GUPTA

C/H-29, Kedar Nagar,
Agra.

(R.B.L. GUPTA)

Copy forwarded to following for necessary action :-
1. Director of Education, Old Secretariat, Delhi,
2. Dy. Director of Education, (Distt. South), Defence colony
3. Education officer Zone 25, Defence Colony, N. Delhi
4. Principal, Govt. Boys Sr. Secondary School, N. Delhi
Badarpur, New Delhi- 44
5. Accounts officer, P.A.O. No. 1, Sect. -1, R.K. Puram,
New Delhi.

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(B. Krishan) Advocate

To

Dated: 12/8/96

The Secretary,
Administrative Reforms & Public Grievances
Sardar Patel Bhawan, Sansad Marg,
New Delhi-I.

38

Sub:- Settlement of pension in respect of Sh.R.B.L.Gupta. Vice-Principal
retired on 1/8/88 from Govt. Boys., Sr. Sec. School Badarpur, New
Delhi-110044.

Sir,

I retired from the above mentioned school in the month of August, 1988, vide letter No.P-11/2/88.Edu/7214-7235 dated 29th July, 1988 by the Joint Secretary (Education) Delhi Admn. but I am sorry to bring to your kind notice that instead of repeated representations (copies enclosed) and personal visits in concerned offices (Education Deptt.) no action has so far been taken, though a period of more than eight years has passed. *No pension, Commisariat, Allowance, Gratuity, Retirement Allowance, Pay, Leave, etc.* No pension is being paid.

According to the Directive issued by the late Prime Minister of the Govt. of India (Smt. Indira Gandhi) my pension should have been settled on the date of my retirement i.e. 1.8.1988.

Due to the fault of the concerned officials, I have been deprived of my fundamental right. Secondly due to the negligence on the part of the concerned officials I have/had also been facing with the financial hardships, mental and physical torments and have been deprived of my responsibilities and duties to my family members since I had no money and health.

It is my humble submission that necessary inquiries may be instituted and culprits may be held responsible so that they may not be able to do such kind of injustice in future.

I shall be highly grateful to you if you kindly look into the matter personally and issue necessary instructions to the concerned department for an early settlement of my pension.

A prompt reply is requested at the following address:

R.B.L.Gupta,
c/o Sh.R.P.Gupta,
98-B, DDA Flats Mansarovar Park,
Shahdara, Delhi-110085

Yours faithfully,
R.B.L.Gupta
(R.B.L. GUPTA)
Retd. Vice-Principal

Forwarded for necessary action to:

1. To the Honourable Education Minister Sh. Harsh Vardhan, Ministry of Education, Delhi Admn. Old Sectt. Delhi.
- ✓ 2-Secretary of Education (Old Sectt.) Delhi Admn.
- ✓ 3-Director of Education (Delhi Admn.) Old Sectt. Delhi.

✓ Encl: Four.

D.D.E. (South)

R.B.L.Gupta
(R.B.L. GUPTA)
Retd. Vice-Principal

Dy. No. 3342
dtd. 20.8.96

प्राचीन एवं ऐतिहासिक
विद्या निदेशालय
दिल्ली सरकार
दिल्ली।

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B. Krishan
(B. Krishan) Advocate



U. R. Kapoor
Joint Director (AR)

51 39
TOP PRIORITY

ADMINISTRATIVE REFORMS DEPARTMENT
GOVT. OF NATIONAL CAPITAL
TERRITORY OF DELHI
5, SHAM NATH MARG, DELHI-110 054

TEL. NO. 2822695
D.O. NO. Y 11/4A/1B/AR/ 2638

Dated 3/8/96

Dear Sir,

I am enclosing herewith a complaint in
original from Shri R.B.L. Gupta,
for your kind perusal.

2. You are requested to kindly offer your
comments immediately so that present status/progress
of the case could be brought to the notice of
Principal Secretary/Lt. Governor.

With regards,

Yours sincerely,

O/C

(U.R. KAPOOR)

Shri S. Regunathan,
Secretary (Education),
Old Secrt.,
Delhi-54.

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(B. Krishan) Adv.

Registered

33

Dated 1-2-97.

1-2-1999

To,

Secretary of Education
(Delhi ADMN.)
Old Secretariat, Dekhi.

52
40

Sub: Payment of Interest on the retirement benifits I/R
of the undersigned.

....

Sir,

Referring to the subject cited above I have to state
that I submitted all necessary papers for pension including
Form No.5 within a month since the date I sought retirement
on 1.8.88 but unfortunately I was paid the retirement benefits
as late as in the month of Feb. to April 1997 with the
result that I was put to acute financial tortures and
had to pay exorbitant rates of interest during the period.

As such your honour is hereby requested to kindly arrange
fixdxx for the payment of interest on the delayed payments
as admissible under rules within a period of one month. This
one month period may please be treated as the period of
notice for the payment of interest failing which it will be
presumed that you are not interested in fixdxx fullfillment
of the said demand and as such a suit may be filed in the
Court of law for the claim of interest and the department
will be held responsible for the payment of the cost of
suit in addition to the payment of inetest becoming payable
under rules.

Necessary particulars as under :-

Name : R.B.L. GUPTA

Father's name : Shri Late Pyare Lal Gupta-

Designation : Vice Principal

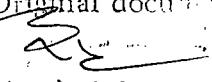
4. School from where
retired : Govt. Boys Sr. Sec. School, Badarpur,
New Delhi- 44. 8th South.

Date of retirement : Retired Voluntarirg on 1.8.1988
and Category of pension : under ~~marked~~ clause K-FR-56 after
observing all the formalities including
vigilance clearance etc.

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(B. Krishan) Advocate

contd... 2

Date of birth

: Jan. 5, 1934.

Date of appointment

: Nov. 28, 1962.

Permanent address

: C/H-29, Kedar Nagar,
Shahganj Agra-10

Date of payment of gratuity : 8/5 Feb 1997 amount
and amount of gratuity Rs. 46875/-

Date of the payment of the Arrears of pension and the : 26 April, 1997.

With regards,

Yours faithfully,

R.B.L. Gupta

(R.B.L. GUPTA)

Encl.

- ✓ 1. Retirement order.
- ✓ 2. Reliving chit
- ✓ 3. Copy of the form No. 7.
- ✓ 4. Vigilance clearance report.
- ✓ 5. P.P.O. order, dated 12 Feb 1997 can be had from P.A.O. No 1, R.K. Bhawan, New Delhi.
- ✓ 6. Copy of the sanction of gratuity (commutation) can be had from P.A.O. No 1, R.K. Bhawan, New Delhi.
- ✓ 7. Copy of the Due statement of the arrears can be recovered from P.N.B. Shahganj, Agra.
- ✓ 8. Sanction letter of the pension etc.

Copies forwarded to the following :

- 1. Director of Education Old Secretariate, Delhi
- 2. Minister of Education Old secretat, Delhi.
- 3. Secretary, Public Grievances and administrative reforms, Sardar Patel Bhawan, New Delhi.
- 4. Ministry of personal and Public grievances Khan Market New Delhi.

R.B.L. Gupta

(R.B.L. GUPTA)

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(B. Krishan) Advocate

dated 8-7-2000

TO

The Secretary of Education
(Delhi Admn.)
Old Secretariate, Delhi.

54

42

Sub. :- IInd Reminder to the claim of interest dated Feb., 1, 1999, along with a claim of refund of illegal recovery and payment of compensation I/R of the undersigned retired voluntarilly as Vice Principal From Govt. Boys Senior Secondary School, Badarpur, New Delhi-110044.

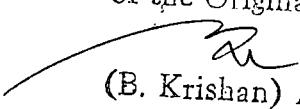
Sir,

Referring to the subject cited above I regret to write that a period of about one and half year has elapsed since the date of sending the claim of interest to your office but with no reply till date. You are therefore once more reminded to please arrange for the payment of interest at the rate of 24% per annum over the Amount of gratuity till the date of payment i.e. 06.02.1997 and over the amount of arrears of pension till the date of payment alongwith the fulfilment of the other entitlements of the undersigned at your earliest possible:-

1. The amount of Rs. 24,518/- From commutation and the entire Amount of gratuity Rs. 46,875/- = Total Amount Rs. 71,393/- recovered by the Principal Govt. Boys Sr. Sec. School, Badarpur, New Delhi-110044, against the illegal damages of Rs. 71,393/- Encl. No. 1, levied by the Director of Estate New Delhi, is an illegal recovery. The damages if any, legal or illegal can not be recovered from gratuity or pension and also not from commutation as commutation is also a part of the pension. As per direction and decision of the Supreme Court of India, who holds that, "Pension and gratuity are no longer any bounty to be distributor by the Government to its employees on their retirement but have become under the decision of the court

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(B. Krishan) Advoc.

JK
KB

valuable rights and property in their hands and any culpable delay in the settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till the actual payment.

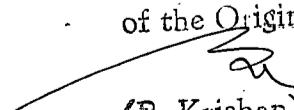
The court further holds that "The D.C. R.G. cannot be withheld merely because the claim for damages for unauthorised occupation is pending, should in our considered opinion have granted interest at the rate of 18% since the right of gratuity is not dependent upon the appellant vacating the official accommodation.

As such you are required to refund the said amount of illegal recovery along with the interest over the said Amount at the rate of 24% per Annum, since the date of recovery on Feb. 6, 1997, till the date of actual payment to be made.

2. The amount of monetary compensation for the illegal harrassment and torturous action by the Department to the undersigned and my family for a period of about 8 years and 9 months w.e.f. the date of retirement 01.08.1988 to the date of actual payment of the arrears of pension on 26.04.1997 and also compensation on account of illegal recovery and non payment of Rs. 71,393/- w.e.f. 06.02.1997 till the date of actual payment may please also be paid at your earliest possible. As I along with my wife and children have miserably been suffering on account of physical Economics and mental torture resulting into the deterioration of my health and health of my wife alongwith mental retardation during the period. It has also resulted in the lack of proper educational and medical facilities to my children

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(B. Krishan) Adv.

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and in a poor standard of marriage, along with mental agony for me and for my wife. We have been passing a miserable life with a very poor standard of living in an environment of very low social and Economic states in the society.

Evidently that this is a case of an established breach of Fundamental right - Right to life under Article - 21 of the constitution of India which ensures a life with human dignity eg. food, water, decent environment, education, Medical care and shelter and also violation of the constitutional right, 'Right to property' under Article 300A of the constitution of India, as Receiving pension is a right to property (Fundamental right), under Article 19 later on amanded as a constitutional right.

The violation of the two rights referred to above amount the payment of compensation by the Deptt., which may be determined in accordance with service law and other necessary Rule/s meant for the purpose.

An immediate settlement of the matter is requested.

Address :-

C/H-29, Kedar Nagar
Agra (U.P.),

RBL Gupta Yours faithfully,
8/7/2000 *RBL Gupta*
(R. B. L. Gupta)
Dated : 08.07.2000

Enclosures :-

1. COPY of the Page 35 of S/B volume-III.
2. Ruling of the supreme court in support of the refund of illegal recovery.

COPY to :-

1. Director of Education, Delhi Admin., Delhi, for information and necessary action.

Yours faithfully,

RBL Gupta
(R. B. L. GUPTA) 8/7/2000

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B. Krishan (B. Krishan) Advocate

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(ALLAHABAD HIGH COURT)

R.A. SHARMA and S. RAFAT ALAM, JJ.

C.M.W.P. No. 34733 of 1995

May 17, 1995

Between

Smt. ARUNA DHOSE

and

STATE OF U.P. and another

Pension—And other post retirement benefits—Government does not pay it—As a bounty—It is a right of Government servant.

The Government does not pay pension and other post retirement benefits as a bounty to its employees after their retirement. It is the right of the Government servant to get those dues unless withheld in accordance with the procedure laid down by the law.

Retirement benefits—Petitioner's husband was not paid any retirement benefit—Although neither any criminal and/or departmental proceeding was pending—90% pension paid after seven years of retirement and remaining paid after his death—Respondent has to pay interest @6% and 18%—Petition allowed with cost of Rs. 5000/-.

Counsel for the petitioner : Brahma Kishore.

Counsel for the respondents : S.C.

JUDGMENT

R.A. SHARMA and S. RAFAT ALAM, JJ.—Husband of the petitioner, Sri B.M. Dhose was the Deputy Superintendent of Police in the service of the State Government. He was compulsorily retired by the Government of U.P. by order dated 7.11.75. Against the order of compulsory retirement, he filed a claim petition before the U.P. Public Service Tribunal, Lucknow which was dismissed on 18.1.1994. Thereafter, he died on 15.9.95.

2. After his retirement the petitioner's husband raised his claim for pension and other post retirement benefits. But no action was taken in that regard by the Government. It was only on 9.6.82 that the Government passed an order directing withholding of the gratuity and for payment of 90% pension. In accordance with the above order, 90% pension was paid to the petitioner's husband. But it was only on 21.7.95 that the petitioner, who is widow of Sri B.M. Dhose, was paid the remaining pension and the gratuity. As the pension and gratuity were paid to the petitioner without any interest, she made representation for payment of interest. In para 23 of the writ petition it has been stated that even the D.I.G. Police (Administration) recommended to the Government for payment of interest to the petitioner, but it did not yield any result. Not having succeeded in getting the interest from the Government, the petitioner has filed this petition for a writ of mandamus commanding the respondents to pay her interest at the rate of 24% per annum from 8.11.75 to 21.7.95, compoundable every year.

3. On 1.12.1995 learned Standing Counsel was granted three weeks' time to file counter-affidavit. But no counter-affidavit was filed. On 11.4.96 this Court

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(B. Krishan) Adv.

granted three weeks and no more time to file counter affidavit. But inspite of the said order no counter-affidavit has been filed, with the result that the allegations made in the writ petition are liable to be accepted as correct.

4. The Government does not pay pension and other post retirement benefits as a bounty to its employees after their retirement. It is the right of the Government servant to get those dues unless withheld in accordance with the procedure laid down by the law. The Supreme Court in *State of Kerala & others v. M. Padmanabhan Nair*,¹ the relevant extract of which is reproduced below, has laid down that right to pension and gratuity are the valuable rights of the employees and if there is delay in making those payments the Government servant is entitled to interest. The relevant extract is 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 decision 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."

5. Following the above decision the Supreme Court in *R. Kapoor v. Director of Inspection Income tax and another*,² awarded 18% interest for delayed payment of gratuity.

6. In the instant case the petitioner's husband retired in 1975 but he was not paid any retirement benefits after his retirement. Although neither any criminal and/or departmental proceeding was pending at the time of his retirement nor any such proceeding was initiated thereafter but even then 90% pension was paid to him pursuant to an order dated 9.6.1982, i.e., after about seven years of his retirement. The remaining pension and gratuity was paid to the petitioner in 1995 after her husband's death. There is, thus, undue delay and negligence on the part of the Government in making payment of post retirement benefits to the petitioner's husband and to the petitioner after his death. Not only that there is no plausible explanation for delayed payment in the instant case, but the respondents even failed to show cause before this court in spite of the order passed to that effect more than once.

7. In view of the facts and circumstances of the case, this petition is allowed with cost, which in view of the facts and circumstances of the case, is assessed at Rs. 5000/- (Rupees Five thousand), which shall be paid by the respondents to the petitioner within a period of three months from the date of presentation of a certified copy of this order before them. The respondents will also pay to the petitioner interest at the rate of 6% per annum over the amount of 90% pension, which was paid to the petitioner's husband pursuant to the order dated 8.6.1982, for the period from the date of his retirement till the 90% pension was paid to him. For the remaining amount which was paid to the petitioner in 1995, the respondents will pay interest at the rate of 18% per annum from the date of retirement of the petitioner's husband till the date of payment to the petitioner. The aforesaid interest will be paid to the petitioner within the period of three months specified above.

Petition Allowed

1. 1985 (50) FLR 145 (SC).
 2. 1994 (69) FLR 1137 (SC).

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(B. Krishan) Adv.

R. KAPUR

Appellant:

DIRECTOR OF INSPECTION (PAINTING AND
PUBLICATION) INCOME TAX AND ANOTHER Respondents

Civil Appeal No. 6342 of 1994, decided on September 29, 1994

Interest — Gratuity — Rate of interest on arrears of — Gratuity withheld for not vacating government accommodation and not paying damages levied under relevant rules for overstay — Right of such a retired employee to gratuity, held, not dependent on vacating the government accommodation — Hence, instead of 10% interest @ 18% per annum ought to have been awarded by the Tribunal — Rate of interest enhanced accordingly, without prejudice to the respondent's right to recover the damages under F.R. 48-A.

The appellant retired as Director General of Income Tax on 28-2-1986. The Central Administrative Tribunal, although holding that death-cum-retirement gratuity could not be withheld merely for non-vacation of the government accommodation, for that very reason allowed interest only @10%. Allowing the instant appeal as to the rate of interest, the Supreme Court

Held:

The Tribunal having come to the conclusion that DCRG cannot be withheld merely because the claim for damages for unauthorised occupation is pending, should have granted interest at the rate of 18% since right to gratuity is not dependent upon the appellant vacating the official accommodation. 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. (Para 11)

State of Kerala v. M. Padmanabhan Nair, (1985) 1 SCC 429; 1985 SCC (L&S) 278, referred to

Appeal allowed

H-M/T/13582/CL4

Advocates who appeared in this case:

Appellant in person.

P.N. Misra, Advocate, for the Respondents.

The Judgment of the Court was delivered by

S. MOHAN, J.—Leave granted.

2. The facts in brief in this appeal are as under.

3. The appellant retired as Director General of Income Tax on 28-2-1986. He was informed that his payment of gratuity could not be made till the receipt of "No Demand Certificate" from the Directorate of Estates.

4. While he was working in Delhi, he occupied a pooled Central government accommodation. The licence fee was fixed at Rs 88 per month. The rules relating to charging of licence fee were amended in June 1976. So, he had

† From the Judgment and Order dated 29-8-1991 of the Central Administrative Tribunal, New Delhi in OA No. 399 of 1987

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(B. Krishan) Adv.

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Appellant:

Respondent:
1994Withheld for not
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Interest @ 18%
rest enhanced
damages under5. The gratuity could not
be for that reason
on the rate ofWithheld merely
should have
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Lahore, New

to pay damages for use and occupation of the accommodation equal to the market licence fee as might be determined by the Government from time to time. In May 1979, appellant was transferred out of Delhi. However, he continued to retain the official residence notwithstanding the fact that the allotment was cancelled from 1-7-1979. He was re-transferred to Delhi in 1983 and the allotment was regularised. During the period of his unauthorised occupation, proceeding under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as 'the Act'), the Estate Officer levied damages against the appellant. Against this order of levy of damages, an appeal was preferred to the District Judge. By order dated 25-7-1984, the damages came to be reduced from Rs 1070 to Rs 176.

5. During the pendency of the appeal before the District Judge under the Act, the appellant preferred Civil Writ Petition No. 665 of 1984 in the High Court of Delhi challenging the recovery from him for the period 1-1-1976 to August 1979. By an order dated 9-8-1984, the High Court took the view that it was open to the appellant to approach the department concerned inasmuch as the damages have been reduced to Rs 176 per month by the District Judge in appeal. Notwithstanding these two proceedings since the Directorate of Estate did not order the refund, the appellant wrote a letter dated 19-12-1984 requesting that orders be passed in relation to refund. There was no response. Without deciding the same and refusing to issue a No Demand Certificate if the appellant's gratuity was withheld, the appellant would be entitled to interest at the rate of 18% per annum. On these allegations, he moved an application under Section 19 of the Administrative Tribunals Act, 1985 before the Central Administration Tribunal, Principal Bench, New Delhi in OA No. 399 of 1987. The respondent contested the same stating that the appellant ought to have vacated the government accommodation allotted to him by 31-12-1975, that he did not do. Therefore, he was informed that he would be charged market rent w.e.f. 1-1-1976. When he was transferred to Meerut in June 1979, he ought to have vacated the premises within two months from the date of transfer, even this was not done. With effect from 1-9-1979 for his unauthorised occupation, he became liable to pay damages under the Allotment Rules for overstay. The Estate Officer by his order dated 12-3-1983 passed an order for damages. That, however, came to be reduced to Rs 176 per month. That has not been cleared. Therefore, the final "No Demand Certificate" could not be issued. It is under these circumstances, the gratuity came to be withheld.

6. The Tribunal on a consideration of the above held that death-cum-retirement gratuity (hereinafter referred to as 'DCRG') could not be withheld merely because the employee had not vacated the allotted premises during the course of his employment. Inasmuch as the appellant continued to retain the allotted residence even after retirement, interest at the rate of 10% could be paid to the appellant.

7. As regard the refund of the excess damages i.e. Rs 1070 less Rs 176 for the period 1-10-1979 to 20-11-1981, it was directed to be refunded and the recovery of damages could be made under Fundamental Rule 48-A(iv)(c)(ii)(8).

8. If this appeal before us the appellant urges that he would be entitled to 18% interest at least in view of judgment of this Court in *State of Kerala v.*

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(B. Krishan) Advocate

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 M. Padmanabhan Nair¹. Relying on this ruling, it is submitted that there is unjustified culpable delay in issuing the No Demand Certificate. The Tribunal having held that DCRG cannot be withheld because of the pendency of the claim for damages should have awarded interest at the rate of 18% per annum.

9. The respondent has not entered appearance.

10. This Court in *M. Padmanabhan Nair case¹* 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, 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.

(1994) 28 Administrative Tribunals Cases 518

Supreme Court of India

(BEFORE P.B. SAWANT AND G.N. RAY, JJ.)

PURANJIT SINGH

Petitioner

Versus

UNION TERRITORY OF CHANDIGARH AND OTHERS . . . Respondents.

SLP (C) No. 4117 of 1993[†], decided on September 22, 1994

A. Seniority — Direct recruit — Previous service whether to count — Employee in a department of State Government, in exercise of option given to him, joining another department and subsequently being directly recruited to identical post in the new department — Such direct recruit, held, cannot claim seniority on the basis of the previous service rendered in the new or in the previous department — Punjab Service of Engineers, Class II (PWD) Rules, 1965, R. 12.5

B. Promotion — Basis for claim — Deputationist repatriated, held, cannot claim promotions in the parent department on the basis of official in higher posts in the borrowing organisation — Deputation — Repatriation

C. Transfer of Department — Employee, under an option given to him, joining another department — Effect — On doing so, held, his earlier services stood wiped out even in absence of a formal order to that effect from either department — However, on facts, held, such an order had been issued albeit after some delay

¹ (1985) 1 SCC 429; 1985 SCC (L&S) 278

[†] From the Judgment and Order dated 2-2-1993 of the Central Administrative Tribunal, Chandigarh Bench, Chandigarh in OA No. 185 of 1992.

1994] PUR

The petitioner, the Punjab Government of the said Goyer post of Assistant Engineer, on 7-10-1972 he was made a representative of the Engineering Department from the PWD (P.S.E.) seniority w.e.f. 7-1-1972. He made a representation to the Government of India fixing his seniority w.e.f. 7-1-1972. On the other side that the matter was referred to the Executive Engineer, Executive Engineering team on 23-12-1980, 11-5-1981, 11-5-1982, 11-5-1983, 11-5-1984, 11-5-1985, 11-5-1986, 11-5-1987, 11-5-1988, 11-5-1989, 11-5-1990, 11-5-1991, 11-5-1992, 11-5-1993, 11-5-1994, 11-5-1995, 11-5-1996, 11-5-1997, 11-5-1998, 11-5-1999, 11-5-2000, 11-5-2001, 11-5-2002, 11-5-2003, 11-5-2004, 11-5-2005, 11-5-2006, 11-5-2007, 11-5-2008, 11-5-2009, 11-5-2010, 11-5-2011, 11-5-2012, 11-5-2013, 11-5-2014, 11-5-2015, 11-5-2016, 11-5-2017, 11-5-2018, 11-5-2019, 11-5-2020, 11-5-2021, 11-5-2022, 11-5-2023, 11-5-2024, 11-5-2025, 11-5-2026, 11-5-2027, 11-5-2028, 11-5-2029, 11-5-2030, 11-5-2031, 11-5-2032, 11-5-2033, 11-5-2034, 11-5-2035, 11-5-2036, 11-5-2037, 11-5-2038, 11-5-2039, 11-5-2040, 11-5-2041, 11-5-2042, 11-5-2043, 11-5-2044, 11-5-2045, 11-5-2046, 11-5-2047, 11-5-2048, 11-5-2049, 11-5-2050, 11-5-2051, 11-5-2052, 11-5-2053, 11-5-2054, 11-5-2055, 11-5-2056, 11-5-2057, 11-5-2058, 11-5-2059, 11-5-2060, 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workman is bad, he would be entitled to back-wages for the period when he was in job unless it was shown to the satisfaction of the court that he was gainfully employed during that period or for any other valid reason. In the case on hand, nothing has been brought on record that the petitioner was gainfully employed. I, therefore, do not find any valid ground to deny the relief of back-wages to the petitioner. Leave has been granted to the petitioner when he was in service. That cannot be adjusted towards the period of his absence because of illegal termination of his services.

The writ petition is, therefore, allowed and respondent No. 3 is directed to pay the back-wages to the petitioner from the date of termination till the date of his reinstatement. It is brought to my notice that the petitioner died during the pendency of the writ petition and his wife was impleaded as his legal representative. Therefore, the legal representative of the petitioner, who has been impleaded as a party to the writ petition, is entitled to the said amount of the back-wages. Respondent No. 3 is directed to pay the said amount to the legal representative of the petitioner workman.

Petition allowed

(ALLAHABAD HIGH COURT)

ALOKE CHAKRABARTI, J.

C.M.W.P. No. 393 of 1997

February 20, 1998

Between

AMIR HASAN

and

U.P. STATE R.C.D TRANSPORT CORPORATION and others

Gratuity—Withholding of—No ground for non-payment of gratuity given
Change of financial power cannot be a ground—Respondents are directed to pay
alongwith interest @ 18% per annum.

There is actually no defence for non-payment of gratuity and such change of financial power from one authority to other can not deprive a citizen from his legitimate dues. It is also admitted that the amount has already been sanctioned. Therefore, this writ petition is allowed. The respondents are directed to pay gratuity amount to the petitioner alongwith interest at the rate of 18% per annum within three months.

JUDGMENT

ALOKE CHAKRABARTI, J.—The petitioner has claimed his amount of gratuity and it has been contended that although there was no reason for withholding the same after superannuation of the petitioner, arbitrarily the respondents have kept withheld the said amount. Counter Affidavit has been filed by the respondents wherein categorical statements have been made that the payment of the petitioner's post retirement benefits except gratuity was made to him and so far as the payment of gratuity is concerned, the same was sanctioned by the respondent No. 2 vide his order dated 17.7.1996. But the defence taken in the counter affidavit in respect of withholding of payment is that financial powers have been withdrawn from the respondent No. 2 by the respondent No. 1 with effect from December, 1996 and as such the respondent No. 2 by his letter dated 11.2.1997 has requested the respondent No. 1 to release the amount of gratuity to the petitioner forthwith. It seems that there is actually no defence for non-payment of gratuity and such change of financial power from one authority to other can not deprive a citizen.

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(B. Krishan) Adv.

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from his legitimate dues. It is also admitted that the amount has already been sanctioned. Therefore, this writ petition is allowed. The respondents are directed to pay gratuity amount to the petitioner alongwith interest at the rate of 18% per annum within three months from the date of production of a certified copy of this order. *[Signature]*

Petition Allowed.

(KARNATAKA HIGH COURT)
G. PATRI BASAVANA GOUD, J.

W.P. No. 28812 of 1996

January 5, 1998

Between

TRACTORS AND FARMS EQUIPMENT LTD. and another
and

STATE OF KARNATAKA and others

*Industrial Disputes Act—Section 34—Sanction—Power of State Government—
To sanction prosecution—Find to be applied—Merely endorsing opinion of
Commissioner—Not proper—Factors to be considered—Enumerated.*

It is, thus, evident from the principles enunciated in the above said decision that the decision under Section 34 of the Act has to be taken by the State Government and the duty of taking this decision cannot be usurped by any other authority. Once the Government takes a decision to file a complaint, then, it is a different matter as to whether it files a complaint or under its authority, anybody else files a complaint. The State Government acted as though it is bound to accept the conclusions reached by the Labour Commissioner, and, without independent application of mind, has simply accorded sanction as recommended by the Labour Commissioner. It was, thus, a case of the Labour Commissioner assuming the role of the State Government, considering the whole matter, forming an opinion that it was a fit case in which sanction should be granted under Section 34 of the Act and then, because he himself could not grant sanction under Section 34, he recommended to the State Government to sanction the prosecution, so that the sanction could be regarded as the one accorded by the State Government under Section 34 of the Act and not by the Labour Commissioner. In the words of the Supreme Court in the said *Mansukhlal's* case,¹ this also is a classic case, where a brand name is changed to give a new colour to the package without changing the contents thereof.

The order under Section 34 of the Act Act at annexure "C" having been passed by the first respondent—State Government without application of mind, same cannot be legally sustained.

Industrial Disputes Act—Section 34—Constitution of India—Article 226—Writ petition—Filed and the sanction order stayed—Cognizance taken thereafter by the Magistrate—Not legal—Writ petition does not become infructuous—Validity of such sanction still open to consideration of court.

This court issued rule nisi and also stayed the operation of annexure "C" by the order dated October 11, 1996, for a period of one month, which was extended from time to time. By then, annexure "C" had not yet been acted upon. However, in spite of the said annexure "C" having been stayed and as such, it being legally not permissible for any

1. (1997) 7 SCC 622.

(1994) 28 Administrative Tribunals Cases 516

Supreme Court of India

(BEFORE M.N. VENKATACHALIAH, C.J. AND S. MOHAN, J.)

R. KAPUR

Appellant

Versus

DIRECTOR OF INSPECTION (PAINTING AND
PUBLICATION) INCOME TAX AND ANOTHER

Respondents

Civil Appeal No. 6342 of 1994, decided on September 29, 1994

Interest — Gratuity — Rate of interest on arrears of — Gratuity withheld for not vacating government accommodation and not paying damages levied under relevant rules for overstay — Right of such a retired employee to gratuity, held, not dependent on vacating the government accommodation — Hence, instead of 10% interest @ 18% per annum ought to have been awarded by the Tribunal — Rate of interest enhanced accordingly, without prejudice to the respondent's right to recover the damages under F.R. 48-A

The appellant retired as Director General of Income Tax on 28-2-1986. The Central Administrative Tribunal, although holding that death-cum-retirement gratuity could not be withheld merely for non-vacation of the government accommodation, for that very reason allowed interest only @ 10%. Allowing the instant appeal as to the rate of interest, the Supreme Court

Held:

The Tribunal having come to the conclusion that DCRG cannot be withheld merely because the claim for damages for unauthorised occupation is pending, should have granted interest at the rate of 18% since right to gratuity is not dependent upon the appellant vacating the official accommodation. 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.

State of Kerala v. M. Padmanabhan Nair, (1985) 1 SCC 429; 1985 SCC (L&S) 278, referred to
Appeal allowed

H.M/T/13582/CL

Advocates who appeared in this case:

Appellant in person.

P.N. Misra, Advocate, for the Respondents.

The Judgment of the Court was delivered by

S. MOHAN, J.—Leave granted.

2. The facts in brief in this appeal are as under.

3. The appellant retired as Director General of Income Tax on 28-2-1986. He was informed that his payment of gratuity could not be made till the receipt of "No Demand Certificate" from the Directorate of Estates.

4. While he was working in Delhi, he occupied a pooled Central government accommodation. The licence fee was fixed at Rs 88 per month. The rules relating to charging of licence fee were amended in June 1976. So, he has

† From the Judgment and Order dated 29-8-1991 of the Central Administrative Tribunal, New Delhi in OA No. 399 of 1987

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(B. Krishan) Advoc

pay damages market licence time. In May 1 continued to ret allotment was ea the allotment occupation, proc Occupants) Act, levied damages a appeal was pre damage came to

5. During the Act, the appellant Court of Delhi ch August 1979. By was open to the a the damages have appeal. Notwithsta did not order the requesting that ord Without deciding t appellant's gratuity the rate of 18% per Section 19 of the Administration Tri The respondent e vacated the govern did not do. Theref w.e.f. 1-1-1976, w have vacated the p this was not done, he became liable to Estate Officer by however, came to b Therefore, the final these circumstances

6. The Tribunal retirement gratuity merely because the course of his emplo allotted residence ev to the appellant.

7. As regard the period 1-10-1976 recovery of damages

8. In this appeal interest at least

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Appellant:

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to pay damages for use and occupation of the accommodation equal to the market licence fee as might be determined by the Government from time to time. In May 1979, appellant was transferred out of Delhi. However, he continued to retain the official residence notwithstanding the fact that the allotment was cancelled from 1-7-1979. He was re-transferred to Delhi in 1983 and the allotment was regularised. During the period of his unauthorised occupation, proceeding under Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as 'the Act'), the Estate Officer levied damages against the appellant. Against this order of levy of damages, an appeal was preferred to the District Judge. By order dated 25-7-1984, the damages came to be reduced from Rs 1070 to Rs 176.

5. During the pendency of the appeal before the District Judge under the Act, the appellant preferred Civil Writ Petition No. 665 of 1984 in the High Court of Delhi challenging the recovery from him for the period 1-1-1976 to August 1979. By an order dated 9-8-1984, the High Court took the view that it was open to the appellant to approach the department concerned inasmuch as the damages have been reduced to Rs 176 per month by the District Judge in appeal. Notwithstanding these two proceedings since the Directorate of Estate did not order the refund, the appellant wrote a letter dated 19-12-1984 requesting that orders be passed in relation to refund. There was no response. Without deciding the same and refusing to issue a No Demand Certificate if the appellant's gratuity was withheld, the appellant would be entitled to interest at the rate of 18% per annum. On these allegations, he moved an application under Section 19 of the Administrative Tribunals Act, 1985 before the Central Administration Tribunal, Principal Bench, New Delhi in OA No. 399 of 1987. The respondent contested the same stating that the appellant ought to have vacated the government accommodation allotted to him by 31-12-1975, that he did not do. Therefore, he was informed that he would be charged market rent w.e.f. 1-1-1976. When he was transferred to Meerut in June 1979, he ought to have vacated the premises within two months from the date of transfer, even this was not done. With effect from 1-9-1979 for his unauthorised occupation, he became liable to pay damages under the Allotment Rules for overstay. The Estate Officer by his order dated 12-3-1983 passed an order for damages. That, however, came to be reduced to Rs 176 per month. That has not been cleared. Therefore, the final "No Demand Certificate" could not be issued. It is under these circumstances, the gratuity came to be withheld.

6. The Tribunal on a consideration of the above held that death-cum-retirement gratuity (hereinafter referred to as 'DCRG') could not be withheld merely because the employee had not vacated the allotted premises during the course of his employment. Inasmuch as the appellant continued to retain the allotted residence even after retirement, interest at the rate of 10% could be paid to the appellant.

7. As regard the refund of the excess damages i.e. Rs 1070 less Rs 176 for the period 1-10-1979 to 20-11-1981, it was directed to be refunded and the recovery of damages could be made under Fundamental Rule 48-A(iv)(c)(ii)(8).

8. In this appeal before us the appellant urges that he would be entitled to 18% interest at least in view of judgment of this Court in *State of Kerala v.*

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of the Original document

(B. Krishan) Advcc

M. Padmanabhan Nair. Relying on this ruling, it is submitted that there is unjustified culpable delay in issuing the No Demand Certificate. The Tribunal having held that DCRG cannot be withheld because of the pendency of the claim for damages should have awarded interest at the rate of 18% per annum.

9. The respondent has not entered appearance.

10. This Court in *M. Padmanabhan Nair case*¹ 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, 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.

(1994) 28 Administrative Tribunals Cases 518

Supreme Court of India

(BEFORE P.B. SAWANT AND G.N. RAY, JJ.)

PURANJIT SINGH

Petitioner

Versus

UNION TERRITORY OF CHANDIGARH AND OTHERS . . . Respondents.

SLP (C) No. 4117 of 1993¹, decided on September 22, 1994

A. Seniority — Direct recruit — Previous service whether to count — Employee in a department of State Government, in exercise of option given to him, joining another department and subsequently being directly recruited to identical post in the new department — Such direct recruit, held, cannot claim seniority on the basis of the previous service rendered in the new or in the previous department — Punjab Service of Engineers, Class II (PWD) Rules, 1965, R. 12.5

B. Promotion — Basis for claim — Deputationist repatriated, held, cannot claim promotions in the parent department on the basis of officiation in higher posts in the borrowing organisation — Deputation — Repatriation

C. Transfer of Department — Employee, under an option given to him, joining another department — Effect — On doing so, held, his earlier services stood wiped out even in absence of a formal order to that effect from either department — However, on facts, held, such an order had been issued albeit after some delay

¹ (1985) 1 SCC 29; 1985 SCC (L&S) 278

[†] From the Judgment and Order dated 2-2-1993 of the Central Administrative Tribunal Chandigarh Bench, Chandigarh in OA No. 185 of 1992

The petitioner die Punjab Government of the said Government of Assistant on 7-10-1972 he was he was ultimately, Engineering Department from the PWD (B&R) seniority w.e.f. 7-1-1972 made a representation pendency of the poster fixing his seniority w.e.f. 7-1-1972 Court. On the other side that the matter representation. With seat on deputation Executive Engineer from 23-12-1980 to 11-5-1981, he was Administration as Executive Engineer service promoted to 1-12-1988. In 1981 he reverted to the post of Superintending Engineer. Petitioner to senior Engineer was based Department of the Executive Engineer 23-12-1980 when he was in the post of Superintending Engineer. Rejecting all these held:

Although the Irrigation Department PWD (B&R) w.e.f. the Irrigation Department appointed as a direct Department on 18-12-1980 when there was no need for PWD (B&R) to re-irrigation Department which itself.

On his own recommendation by 7-10-1972 was up to date became the I continued to be so.

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(B. Krishan) Advocate

I

N.D.H. : 14.12.2000
18.01.2001

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
O.A. NO. 1511 OF 2000**

IN THE MATTER OF :

SHRI R.B.L.GUPTA

....APPLICANT

(Through : Shri Bal Krishan, Advocate)

V E R S U S

UNION OF INDIA & OTHERS

....RESPONDENTS

(Through : Shri R.V. Sinha, A.C.G.S.C.)

I N D E X

S.No.	Particulars	Page No.
1.	Counter Reply on behalf of Respondent No.2	1 to 7

Filed by

22

At New Delhi, dated 19.12.2000

(R.V. Sinha)
ACGSC

Chamber No.540-541,
Patiala House, New Delhi.

मध्यान स्थायपीठ/CAT (B)
बाज दाखिल किया
Filed Today
20 DEC 2000
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रजिस्ट्रार/Dy. Registrar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
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UNION OF INDIA & OTHERS

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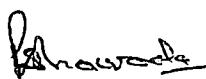
(Through : Shri R.V. Sinha, A.C.G.S.C.)

COUNTER REPLY ON BEHALF OF THE RESPONDENT NO.2.

MOST RESPECTFULLY SHOWETH :

PRELIMINARY OBJECTIONS :

1. That the instant OA is bad for plural reliefs.
2. That the application is misconceived and not maintainable in law.
3. That so far the reliefs claimed against the replying respondent is concerned, this Hon'ble Tribunal has got no jurisdiction in view of the law laid-down by the Apex Court vide its order/judgement dated 6.9.2000 in CA No.1301-04/90, case titled "Union of India Vs. Rasila Ram".


S. B. BHAWADE
Dy. Director (Rents)
Dte. of Estates
NEW DELHI.

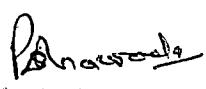
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BRIEF BACKGROUND OF THE CASE :

The applicant was allotted Qr. No.1351/S-XII, R.K. Puram, New Delhi on 30.10.87 which was occupied by him on 03.11.87. The said quarter was cancelled in his name w.e.f. 31.05.94 on the basis of his date of retirement vide letter No.TD/1209/R-127/87 dated 04.02.94. Final Demand Certificate showing a dues of Rs.71,393/- was issued in his name on 16.01.96 with a copy to his school. Subsequently, his school had intimated that the applicant had taken voluntary retirement w.e.f. 01.08.88. Accordingly, cancellation was revised in his name w.e.f. 02.12.88 and revised final demand certificate for Rs.2,29,402/- was issued in his name on 17.07.96 showing the dues for the period 03.11.87 to 14.09.95. Damages Recovery Case and Rent Recovery Case were referred to litigation section on 16.10.96 but no payment has been received till date. Despite repeated reminders to the Directorate of Education, payment of outstanding have not been received from them or from the applicant. The instant OA is mainly against the applicant's _____ parent department i.e. the Respondent No.1.

REPLY ON MERIT :

1(A) & (B) Need no reply being related to the respondent No.1.


 P. B. SAWADA
 Dy. Director (Rents)
 Dte. of Estates
 NEW DELHI.

57

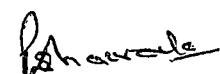
1(C) The contents of the corresponding sub-para are misleading and misconceived and hence denied. The damages in respect of unauthorised occupation/possession of the accommodation referred herein above has not been paid by the applicant and therefore, recovery thereof cannot be termed as illegal.

2. Being matter of record, need no reply.

3. That the contents of the corresponding para to the extent of being matter related to the replying respondent are misleading, misconceived and hence denied. It is reiterated that this Hon'ble Tribunal has no jurisdiction after the law laid down by the Apex Court in the case titled mentioned herein above under the head **Preliminary Objections**.

4.1 to 4.3 That the contents of the corresponding paras either being matter of record and/or related to the respondent No.1, need no reply.

4.4 That the averments made in this para are wrong and misleading and hence denied. It is submitted that a final demand dated 16.1.96 for a sum of Rs.71,393/- was issued to the applicant in



P. B. BHATTACHARYA
Dy. Director (Rents)
Dte. of Estates
NEW DELHI.

58

terms of cancellation of the Government accommodation referred herein above w.e.f. 31.5.94 consequent upon his retirement w.e.f. 31.1.94. However, subsequently a revised cancellation order dated 30.4.96 was issued to the applicant in respect of the same accommodation making the cancellation w.e.f. 2.12.1988 after getting an information from the respondent No.1 that the applicant had taken voluntary retirement w.e.f. 1.8.88. Accordingly, a revised final demand for a sum of Rs.2,29,402/- was issued on 17.7.96 with an endorsement to the applicant's department. However, no recovery against the above dues have been received by the replying respondents either from the applicant and/or from his department.

4.5 & 4.6 That the contents of the corresponding paras either being matter of record and/or related to the respondent No.1, need no reply.

4.7 That the contents of the corresponding para are wrong and misleading and hence denied. As neither refund was due to the applicant nor any application, as alleged in the corresponding para, has been received by the replying respondent.

Patnaik
S. P. PATNAIK
Dy. Director (Rents)
Dts. of Estates
NEW DELHI.

59

4.8 That the contents of the corresponding para^{are} wrong, misleading and misconceived and hence vehemently denied. It is further reiterated that no recovery has so far been received from the applicant and/or from his department against the final dues bill issued by the replying respondent on 17.7.96. Recovery, if any, has been made by the respondent No.1, should be explained by them and sent to the replying respondent.

4.9 to 4.12 That the contents of the corresponding paras either being matter of record and/or related to the respondent No.1, need no reply.

5(a) to (d) That the grounds put forth by the applicant in these paras are not sustainable against the replying respondent herein. It is reiterated that no recovery has so far been received against the final dues referred herein above either from his department and/or from him. It is further submitted that the recovery proceedings under the Public Premises Act, 1970 were initiated besides this Hon'ble Tribunal has no more jurisdiction to interfere into the proceedings and orders of this Act in view of the judgement/order of the Apex Court referred herein above.

P. S. Sharma
P. S. Sharma
By, Director (Rents)
Dte. of Estates
NEW DELHI.

60

Thus, the OA is devoid of any merit against the replying respondent and deserves to be dismissed with exemplary cost.

6 to 7. The contents of the corresponding paras being matter of record, need no reply.

8&9. In view of the facts and submissions as herein above, it most respectfully prayed that this Hon'ble Tribunal may graciously be pleased to dismiss the instant OA with exemplary cost in favour of the replying respondent and against the applicant herein. The instant OA deserves no relief, interim and/or of whatsoever nature against the replying respondent.

10to12. That the contents of the corresponding para being formal in nature, need no reply.

P. B. SHAWADA

For and on behalf of the respondent No. 2

At New Delhi
Dated 19.1.2000

P. B. SHAWADA
Dy. Director (Rents)
Dte. of Estates
NEW DELHI.

Through

(R.V. Sinha)
ACGSC

Chamber No.540-541,
Patiala House, New Delhi.

61

VERIFICATION

I, P. D. Shawda , working as Dy. Director , under the respondents do hereby verify that the contents of this Counter Reply are true and correct per knowledge derived from the official records of the respondents and information received and believed to be true and correct and nothing material has been concealed therefrom.

Verified at New Delhi, on this 19/12 day of December, 2000.

P. D. Shawda
For and on behalf of the Respondent : No. 8

P. D. SHAWDA
Dy. Director (Rents)
Dte. of Estates
NEW DELHI.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH - NEW DELHI

O.A. NO. 1511 of 2000

IN THE MATTER OF:

Shri R.B.L. Gupta Applicant
Versus
Govt. of NCT of Delhi & Ors. Respondents

I N D E X

Sl. No. Particulars Page No.

1. Written statement on behalf of respondents No. 1 1 - 10
2. Annexure R-I
A copy of letter from The Principal GPSSS Badarpur, N.D.-14 dated 15/12/2000 11
3. Annexure R-II
A copy of pay fixation 12
4. Annexure R-III
A copy of details in the prescribed form of application. 13 - 14
5. Annexure R-IV
A copy of letter from the Estate (RESP NO. 2) 15
6. Annexure R-V
Filed Today 16/3
A copy of letter dated 27/12/98 16 - 21
7. Annexure R-VI
Filing No./Filing No...
Dy Registrar
A copy of OMR SP/ on the Service book 22
8. Annexure R-VII

Recd on 15/01/01
Letter from the Principal GPSSS
Badarpur N.D.-14 dated 20/12/2000

Meera Chhikles
Counsel for the Resp't
A-218 P-V Hostel

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH - NEW DELHI

O.A. NO. OF 2000

IN THE MATTER OF:

Shri R.B.L. Gupta Applicant

Versus

Govt. of NCT of Delhi
& Anr. Respondents

WRITTEN STATEMENT ON BEHALF OF

RESPONDENT NO. 1

MOST RESPECTFULLY SHOWETH:

I, Sh. B. N. BASPAI presently posted as Deputy Director of education in the office of Directorate of education, Dist. South, GNCTD am duly authorised and competent to file this reply on behalf of respondent No. 1.

Before advertizing to parawise reply a preliminary objection is taken to the maintainability of O.A. in its present form ^{for} non joinder of proper parties.

The applicant has neither made the Principal or School as a party where he had last worked nor the Dy. Director of Education under whose District or ^{Suspension} the said school was thus the O.A is barred by non joinder of proper and necessary parties.



As is seen from the averments applicant had taken voluntary retirement from the Govt. Boys Sr. Secondary School Badar Pur in August 1988 why his dues could not be paid can be explained best by the school, but unfortunately the applicant has not bothered to implead the above party and has impleaded only the Director of Education who is the head of the department ~~or~~ without impleading the necessary and proper party.

At goes without saying that all the formalities at the time of retirement are to be completed at the place wherever an employee has last worked therefore it was proper to implead atleast that school as a respondent because Respondent No.1 is not directly involved in the process. However as the head of an Institution after receiving the notice in O.A he has already ordered an enquiry to find out why so much delay has taken place, and to fix the responsibility.

However without prejudice to the above, the averments made in O.A are wrong and denied. In fact the applicant is himself responsible for the delay as he had tampered with the service book by doing cutting and over writing at number of places and blocking the enteries with regard to his leave account as he was himself working as Drawing and Disbursing Officer in the School and had full access to the service book. Copy of the service book shall be produced at the time of arguments.

Moreover the applicant never filled the form for revision, after Vth Pay Commission to the Principal which is the proper procedure. As far as deduction of amount is concerned the

Directorate of Estate had raised the demand to the Principal GBSS in 1996 with copy to the applicant therefore it was deducted from his gratuity as per CCS (Pension) Rules. If the applicant was aggrieved off this demand letter, he should have challenged the same but till date applicant has not informed the Principal whether the demand raised by Director of Estate was challenged by him or not.

PARAWISE REPLY

1.A Para 1.A as alleged is wrong and denied. In view of the facts that applicant is partly responsible himself for the delay. The service book has number of over writings and cuttings. The ink spot has deliberately been spilled ~~in service book~~ on 2 or 3 E.O.L. entries which is evident from the service book itself. The petitioner has availed Extra Ordinary Leave frequently but the same has not been recorded in the leave account. All these reasons made certain doubts and suspicion to get the leave regularised and the cuttings and over writings verified for the pensionary benefits that have been paid to the petitioner on 24.2.97.

The matter is being investigated as to how the case of finalisation of pension has been delayed. The responsibility is to be fixed for the default. However, two cheques relating to leave encashment and CGEIS amounting to Rs.2624/-

✓ Rs 1280/- respectively have already been paid to him. Letter S from the Principal enclosed as Annexure-R.



As regards fixation of pay consequent upon his promotion from PGT to V.Principal has already been effected in 1991 and the pension has already been calculated on the basis of Rs.3125/- pay fixed as Vice Principal. See Annexure R-II, but he did not fill up the form after Vth Pay Commission for fixation of pension in revised pay scale for which he is himself responsible. After verifying everthing his Extra Ordinary Leave has been regularised accordingly the increment which has been deferred the arrear is being processed and bill has already been presented with Pay & Accounts Office. As soon as the P&AO clears it the payment will be made to the applicant.

1. B. As per the notification of Finance (Budget Dep'tt.) No.F.14(6)/98-Fin/B dt. 31.12.98 circulating the order of Govt. of India, Min. of Personnel Public Grievances and Pension No.45(10)/98-P&PW (A) dt. 17.12.98, pension of all the retired personnel prior to 1.1.96 is to be revised subject to the retired officials have to furnish the details in the prescribed form of application (Copy enclosed as Annexure R-III). But the petitioner has never applied to the principal, GBSSS, Badarpur, for revision of pension in the prescribed form of application.

The petitioner was in possession of a Govt. accommodation which he had not surrendered after the retirement and kept the Govt. accommodation unauthorisedly for which the Dte. of Estates have raised the demand against answering respondent. Copy duly endorsed to

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applicant accordingly a sum of Rs.71,393 has been recovered from his retiral benefits. The petitioner has also made the Dte. of Estates as respondent No.2. If he has any grievience against respondent No.2 they would defend the same. ^{Annexure 2-IV} In the present O.A the demand has not even been challenged so that aspect pertains to respondent No.2.

2. Para 2 needs no reply.

3. Para 3 is wrong and denied. The O.A is barred by limitation.

4.1 Admitted.

4.2 Para 2 4.2 is wrong and denied in view of the fact as explained above.

4.3 Para 4.3 as alleged is wrong and denied. The pay of the petitioner consequent upon his promotion as V.Principal has already been fixed. This could not be done earlier due to in decision of EOL and non submission of the option of the pay under IV the Pay Commission payment of the arrear w.e.f. 26.9.86 is under process and is likely to be made shortly.

The revision of pension w.e.f. 1.1.96 could not be taken up as the petitioner has not submitted requisite application in the prescribed form. It is relevant to mention here none of the representations are addressed to respondent No.1.

4.4 The revision of the pension in respect of the retired officials prior to 1.1.96 is to be made but the petitioner has never submitted the application in the prescribed form as laid down in Govt. of India's order No.45/10/98-P&PW(A) dt. 17.12.98 after 5th Pay Commission. Kindly refer to Annexure R-V. As far as demand of Rs.71,393 is concerned it has to be challenged in appropriate form and can be defended by respondent No.2.

4.5 Para 4.5 as alleged is wrong and denied. Though there is considerable delay in finalisation of pension but the revision under 5th Pay Commission could not be taken due to non submission of application form in the prescribed format by the petitioner. Annexure R-III.

4.6 Para 4.6 is wrong and denied in view of the facts as explained above. The applicant is himself is responsible for not submitting the forms.

4.7 Para 4.7 is wrong and denied. The remedy open to applicant was to get the same quashed by filing appeal against the demand but till date he has not produced any order showing he had challenged the same or it has been quashed. The petitioner has over stayed in the Govt. accommodation allotted to him by the Dte. of Estates accordingly/^{they} requested the Directorate of



Education to deduct the recoveries as such recoveries have been made as per the directions of the Dte. of Estates. Thus, it pertains to Dte. of Estates (Respondent No.2). As enclosed Annexure R-(V).

4.8 It pertains to respondent No.2. Para 4.8 is wrong and denied. The demand has duly been sent to applicant also.

4.9 to 4.11 Para 4.9 to 4.11 is wrong and denied in view of the facts as explained above. The applicant should have got the papers completed instead of giving representation to the secret at the school from where he had retired.

4.12 Although all the pensionery benefits that is finalisation of pension, commutation of pension and DCRG have already been made to the petitioner on 24.2.97, at the rate of basic pay of Rs.3125/- However, the arrear for the dues of one increment that is Rs.75/- is to be paid to him for which the bill has already been presented to the Pay & Accounts Office and the payment will be made very shortly. The payments already made to the applicant are being given in a separate sheet and what is under process is also being stated categorically. Every case has to be decided on the given facts.

5.a Admitted, most of the payments are under the process and payment will be made shortly.

5.b Ground 5.b as alleged is wrong and denied. The

applicant is party responsible for the delay himself. The revision of pension of the petitioner could not be taken up earlier as he had not submitted the application in the prescribed form as laid down in the rules.

5.c Pertain to respondent No.2

5.d Ground 5.d is wrong and denied, any outstanding amount is liable to be deducted from DCRG of the retiring official under the CCS (Pension) Rules.

5.e Ground 5.e is wrong and denied.

6. Para 6 is wrong and denied. The petitioner has never approached the principal, GBSSS, Badarpur for revision of his pension as per 5th Pay Commission as he had not submitted the prescribed application form to him for the revision of pension enclosed as Annexure R-111.

7. Para 7 is denied for want of knowledge. The petitioner who took the voluntary retirement on 1.8.86, got the payments of the pensionary benefits on 24th Feb., 97. Although a considerable delay has been made in making the payment to the petitioner due to some over writings and cuttings in the service record. Annexure R-VI.

However an enquiry has already been initiated to ascertain the delay and responsibility will be fixed

against the responsible official. The payment of insurance and encashment of leave has already been paid to him (Annexure R1).

As regards the payment of the arrears consequent upon his promotion to the post of V. Principal the same has already been under process and the payment is likely to be received by the Principal from Pay & Accounts Office very shortly. Annexure R-VII.

The revision of pension in accordance with the 5th Pay Commission Report could not be taken by the Principal, GBSSS, Badarpur, as the petitioner has not submitted the application form in the prescribed form as laid down in the orders of Govt. of India dated 17.12.98. Annexure R-III.

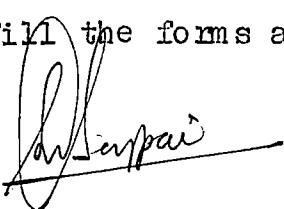
Let the applicant complete the papers so that necessary action may be taken.

In view of the facts as explained above, the applicant is not entitled to any interest or damages as claimed by him. In fact this Tribunal has no jurisdiction to award damages since the applicant is himself responsible he may be directed to complete the necessary forms so that he may be paid his dues.



In fact instead of filing this O.A. the proper course for applicant was to approach the Principal and complete the formalities.

The O.A. therefore may kindly be disposed off by directing the applicant to fill the forms as per law.


CB N. BaspaI

DEPONENT
CB N. BASPAI
Deputy Director of Education
Distt South Defence Colony,

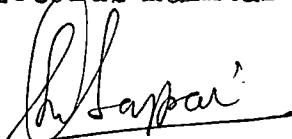
THROUGH

New Delhi


MRS. MEERA CHHIBBER

VERIFICATION:

Verified at New Delhi on this the 1st day of
~~January~~, 2000 that the contents of my above reply are true
and correct to my knowledge. As per records maintained in
the office.


CB N. BaspaI

DEPONENT
CB N. BASPAI
Deputy Director of Education
Distt South Defence Colony
New Delhi

GOVT. BOYS SENIOR SECONDARY SCHOOL NO.1
BADARPUR NEW DELHI-110044

ANNEXURE R-I

Ref. No. GBSS/BPB/16

Date 15.12.2000

To

The Deputy Director of Education
Distt. South, Defence Colony,
New Delhi

Sub : Payment in respect of Sh. R.B.L. Gupta,
Vice Principal of the School.

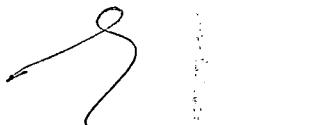
.....

Sir,

It is to inform you that Sh. R.B.L. Gupta, has personally received the sum of Rs.2624/- on account of E. Leave encashment and Rs.1280/- on account of C.G.E.I.S. period.

Yours faithfully,

PRINCIPAL
Govt. Boys Sr. Secy. School No.1
Badarpur, New Delhi-44



ANNEXURE - R-II

DIRECT RATE OF EDUCATION:DELT
(GAZETTED OFFICER CELL)

NO. F 26 (52) / 90 - Edn. / Govt / 916010 Dated:

O R D E R

Consequent upon his promotion as Vice Principal
w.e.f. 26.3.86 in the pay scale of P.M.

26.9.26
of the Directorate of Education, Delhi is hereby accorded
for the fixation of pay of Sh. Sanctioned
as detailed below under FR.22-C. 1.L.S.upto

1. Pay in the lower pay scale of Rs. 2000-3500

Rs. 2975/-
2. Notional Pay arrived at by adding one pay increment last drawn by him in the lower scale.
3. Stage next above the notional pay in the new scale of pay Rs. 2000-60-
~~2300-75-2275-E13-75~~
~~2825-E13-21-3200-100-~~
~~3300-E13-00-3500~~

Rs. 3250/-
4. Pay fixed as on in the pay scale ~~29.9.86~~
 Rs. 2000-3500

Rs. 3125/-
5. Date of next increment
6. House Rent Allowance Sanctioned w.e.f.
 26.9.86

Rs. 3125/-

1.9.87

As per ruling

NO. F 26 (52) / 90 / Edn. 10/1963 ADMINISTRATIVE OFFICER (SOC)
Dated: 22/11/63

1. Copy forwarded for information and necessary action
2. D.D.O.
3. Pay & Accounts Officer concerned through the D.D.O.
Officer concerned.

ADMINISTRATIVE OFFICER (GOC)

ANNEXURE R-III

Annexure

(As referred to in para 7 of O.M. 45/10/98-
P&PW(A) dated 17 December 1998)

782
1324

Form of Application

To,

(Pension Sanctioning Authority)

Subject: Revision of Pension/family pension on 1.1.1996 in terms of
Department of Pension & Pensioners' Welfare Office Memorandum No.
45/10/98-P&PW(A) dated 17 Dec. 1998.

GIP,

Kindly revise my pension/ family pension entitlement shown in my PPO
(Photo copy enclosed) in terms of the Department of Pension and Pensioners'
Welfare Office Memorandum No. 45/10/98-P&PW(A) dated the 17th Dec.
1998. The requisite particulars are given below:-

1. Name of the applicant in block letters and full postal address.
2. Type of pension admissible.
3. Name of the Pensioner/ deceased Government servant (Pensioner) in case of family pension.
4. Date of retirement /death of the Government employee.
5. Date from which pension/family pension is being drawn.

8

6. Pension Payment Order (P.P.O)
No.

74A

14

7. Office/ Department/Ministry in
which the pensioner/ deceased
government servant (pensioner)
served last and the post held
by him.

8. The scale of pay of the post last
held and the last pay drawn.

9. Consolidated final pension /
family pension admissible from
1.1.96.

10. Name of the authority which
issued PPO.

11. Name of the Pension Disbursing
Authority with SDA number,
wherever applicable.

12. If any documentary evidence is
being attached to facilitate
settlement of the case, details
thereof.

Date:

(Signature of Pensioner/Family Pensioner)

W

ANNEXURE-R-IV

No T.D.1209/R128/57

D.E.-19 (A)

24

GOVERNMENT OF INDIA

Directorate of Estates

Regd. AB

25

S

Dated, New Delhi, the 16/1/96

To
Shri....The Principal....
...G.B.S.S. School,...
....Badarpur, New Delhi-11

Sub : No. Demand/Final Demand Certificate in favour of Shri. R.B.L. Gupta [N.I.C.C. Principal]
Sir,

Reference is invited to the correspondence resting with your office, this Directorate letter No. T.D.1209/R127/57
dated 14.1.96.....on the subject cited above.

The licence fee accounts of Shri R.B.L. Gupta.....have been checked and nothing is found
due from him/a sum of Rs. 713.93/-.....as per details given in the margin/in the
statement enclosed, is found to be outstanding against
him which may kindly be recovered from his final
dues if not already recovered, under intimation to
this Dte. and thereafter this letter may be treated as
'No Demand Certificate' in his favour.

1.57 to 30.11.87 @ 145/-	135.00
67 to 6/90 @ 145/-	449.50
to 6/92 @ 190/-	4560.00
to 6/93 @ 190/-	2280.00
to 5/94 @ 20/-	22.00
to 5/95 @ 355/-	42660.00
to 14.9.95 @ 4345/-	15063.00
	<u>713.93/-</u>

In case any of the amounts shown outstanding
had already been recovered, intimation in respect
thereof be sent to this Dte. and this Demand be
reduced correspondingly. The intimation of the
amount recovered from final dues be sent to this
Directorate at a very early date to enable us to square
up this case. The remittance of the outstanding
amount may be sent in the name of Asstt. Director
of Estates (Cash) immediately. Please intimate the
present/permanent address. Name of
the bank with P.P.O. No. from where
Shri R.B.L. Gupta is drawing his
penstation. Yours faithfully,

Asstt. Director of Estates (A/cs) 6

Copy forwarded for information and necessary action to:-

Shri R.B.L. Gupta, c/o. The Principal, G.B.S.S. Sec School
Badarpur, New Delhi-11

Asstt. Director of Estates (A/cs)

RND-L-33D. of Est.-5.9.89 - 50,000.

ANNEXURE-R-X

F.No. 45/10/98-P&PW(A)

Government of India

Ministry of Personnel, Public Grievances and Pensions
Department of Pension & Pensioners' Welfare

16
76

New Delhi, Dated 17 December, 1998

Subject : Implementation of Government's decisions
on the recommendations of the Fifth
Central Pay Commission relating to
retirement benefits.

The undersigned is directed to say that in the wake of a large number of representations received by the Government from the Pensioners' Associations as well as individuals, the Government has reconsidered its decision on the recommendations of the Vth Central Pay Commission regarding revision of pension/ family pension as contained in Paras 137.14 and 134.30 of the report. The President is now pleased to decide that w.e.f. 1. 1. 1996, pension of all pensioners irrespective of their date of retirement shall not be less than 50% of the minimum pay in the revised scale of pay introduced w.e.f. 1. 1. 1996 of the post last held by the pensioner. However, the existing provisions in the rules governing qualifying service and minimum pension shall continue to be operative. Similarly w.e.f. 1. 1. 1996 family pension shall not be less than 30% of the minimum pay in the revised scale introduced w.e.f. 1. 1. 1996 of the post last held by the pensioner/ deceased Government servant. Accordingly, so far as persons governed by CCS (Pension) Rules, 1972 are concerned, orders contained in the following Office Memoranda of this Department as amended from time to time shall be treated as modified as indicated below.

A. O.M. No. 45/86/97-P&PW(A) -Pt.I dated October 27, 1997.

2. The first sentence of paragraph 5 of the Office Memorandum relating to "Pension" may be substituted by the following:

"Pension shall continue to be calculated at 50% of the average emoluments in all cases and shall be subject to a minimum of

No. F. 14(6)/98-FIn(8)
Govt. of N.C.T. of Delhi
Finance (Budget) Department

76A 11-98
P.G.J.C.

6, Sham Nath Marg, Delhi-110064.

Dated: 31/12/98

A copy of the undermentioned paper is forwarded for information and necessary action to the following:-

All Heads of Departments, GNCT, Delhi.
All Departments of DAB, GNCT, Delhi.
All Pay & Accounts officers, GNCT, Delhi.
Commissioner, M.C.U., Town Hall, Delhi.
Secretary, N.D.M.C., Palika Kendra, New Delhi.
Guard File.

Copy to

(G.R. Gupta)
Deputy Secretary Finance (Budget)
Tel. No 396 6607

List of Paper(s) forwarded:

S.No.	Name of the Ministry/ Department	O.M.No. & Date	Subject
1.	Ministry of Personnel, Public Grievances & Pensions (Department of Pension and Pensioners' Welfare)	No.45/10/98-P&PW(A) dated 17.12.1998.	Implementation of Government's decisions on the recommendations of the Fifth Central Pay Commission relating to retirement benefits.

3 DECEMBER

P.P. Circular

1/1

31/12/98

31/12/98

Delivered

W

ANNEXURE R-II

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Rs. 1,275 per month and a maximum of upto 50% of the highest pay applicable in the Central Government, which is Rs. 30,000 per month since 1st January, 1996, but the full pension in no case shall be less than 50% of the minimum of the revised scale of pay introduced with effect from 1st January, 1996 for the post last held by the employee at the time of his retirement. However such pension will be suitably reduced pro-rata, where the pensioner has less than the maximum required service for full pension as per the rule (Rule 49 of CCS(Pension) Rules 1972) applicable to the pensioner as on the date of his / her superannuation / retirement and in no case it will be less than Rs.1275/- p.m."

B. O.M. No. 45/86/97 - P&PW(A) Pt. II dated October, 27, 1997.

3. The following may be inserted after the first sentence, "The amount so arrived at shall be.....with effect from 1. 1. 1996," in the ~~sub~~-para of paragraph 4.1:

"However, in cases where the pension consolidated is treated as the final full pension, it shall not be less than 50% of the minimum of the revised scale of pay introduced with effect from 1st January 1996 for the post last held by the pensioner at the time of his retirement. Such pension will be suitably reduced pro-rata, where the pensioner has less than the maximum required service for full pension as per the rule (Rule 49 of CCS(Pension) Rules 1972) applicable to the pensioner as on the date of his / her superannuation / retirement and in no case it will be less than Rs.1275/- p.m. Similarly, in cases where the family pension so consolidated is treated as final, it shall not be less than 30 per cent of the minimum of the revised scale of pay introduced with effect from 1st January 1996 for the post last held by the concerned pensioner/ deceased government servant."

C. O.M. No. 45/86/97-Pt. III dated February 10, 1998

4. (a) The last sentence of paragraph 2 may be substituted by the following:

"The pension so calculated shall be consolidated as on 1st January 1996 in accordance with the provisions contained in paragraph

2

4.1 of this Department's O.M.No. 45/86/97-P&PW(A) - Pt. II dated 27th October 1997. Such consolidated full pension shall not, however, be less than 50 per cent of the minimum of the revised scale of pay introduced with effect from 1st January 1996 for the post last held by the concerned pensioner. However such pension will be suitably reduced pro-rata, where the pensioner has less than the maximum required service for full pension as per the rule (Rule 49 of CCS(Pension) Rules 1972) applicable to the pensioner as on the date of his /-her superannuation / retirement and in no case it will be less than Rs.1275/- p.m."

This pension shall be treated as the basic pension for the purpose of future grant of Dearness Relief on pension.

(b) The second sentence of paragraph 3 may be substituted by the following:

"This pension shall be consolidated as on 1st January 1996 in accordance with the provisions contained in paragraph 4.1 of this Department's O.M. No. 45/86/97- P&PW(A) - Pt. II dated 27th October 1997. Such consolidated family pension shall not, however, be less than 30 per cent of the minimum of the revised scale of pay introduced with effect from 1st January 1996 for the post last held by the concerned pensioner/ deceased government servant."

(c) The following clause may be inserted after the fifth sentence in paragraph 4:

"The basic family pension so calculated shall not be less than 30 per cent of the minimum of the revised scale of pay introduced with effect from 1st January 1996 for the post last held by the concerned pensioner/ deceased government servant."

D. O.M. No. 45/86/97 -P&PW (A)-Pt. IV dated May 8, 1998.

5. The following may be added after the last sentence in paragraph 2(iii):

"The basic family pension so calculated shall not be less than 30 per cent of the minimum of the revised scale of pay introduced with

ANNEXURE-II

effect from 1st January 1996 for the post last held by the concerned pensioner/ deceased government servant." *H.C.* *Y.P.*

6. The grant of enhanced family pension will be regulated in accordance with the provisions contained in this Department's O.M. No. 45/8/98-P&PW(E) dated 15/12/1998. *78*

7. It shall be the responsibility of the Head of the Department of the Ministry, Department, Office, etc. from which the government servant had retired or where he was working prior to his demise to revise the pension/family pension of all pensioners/ family pensioners with effect from 1st January 1996 in accordance with the modified provisions mentioned above and to issue revised Pension Payment Order (PPOs). Action to revise pension/ family pension in terms of these orders shall be initiated suo moto by the concerned Heads of Departments in cases where the necessary applications have already been received from the pensioners/ family pensioners in pursuance of the earlier orders issued by this Department regardless of the fact whether their cases have already been finalised or are in the process of finalisation. Those pensioners/ family pensioners who have not so far submitted the necessary applications to facilitate the revision of their pension/ family pension and are desirous of availing the benefits under these orders are required to submit applications for revision of their pension/ family pension in the prescribed form (in duplicate) as in the annexure, to their Pension Sanctioning Authorities latest by 31st March 1999. In the case of the Defence Civilian Employees, however, the procedure prescribed in this regard by the Ministry of Defence shall be followed. Concerted efforts should be made by all the authorities concerned to ensure that the revised PPO's are issued, wherever necessary, with the utmost expedition.

8. It is once again reiterated that the Pension Sanctioning Authority in no case, will ask the pensioner/ family pensioner to surrender his/ her original Pension Payment Order (PPO) for issuing revised authority. It may also be ensured that a copy of the revised PPO should be invariably endorsed to the pensioner/ family pensioner.



2)

78A

9. Separate orders will be issued by the Ministry of Defence, Ministry of Railways and the AIS Division of the Department of Personnel & Training in respect of the Armed Forces Personnel, Railway Employees and Members of the All India Services respectively.

10. These orders issue with the approval of the Ministry of Finance, Department of Expenditure, vide their Dy. No. S-46/E.V/98 dated 8th December, 1998.

11. In their applicability to the personnel of the Indian Audit and Accounts Department, these orders issue in consultation with the Comptroller and Auditor General of India.

12. Ministry of Agriculture, etc. are requested to urgently bring the contents of these orders to the notice of the Heads of Departments, Controllers of Accounts, Pay and Accounts Officers, Attached and Subordinate Offices, etc. under their administrative control. All Pension Disbursing Authorities are also advised to display these orders prominently on their notice boards for the information and guidance of the pensioners/ family pensioners.

13. Hindi version will follow.

Ganga Murthy
(Ganga Murthy)
Director (PP)

To

All Ministries/ Departments to the Government of India etc.

Copy to :

1. Office of the Comptroller & Auditor General with two hundred spare copies.
2. As per list attached.

15

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291

23 Annexure-VII

राजकीय बाल विद्यालय

बदरपुर, नई दिल्ली-110 044 80

फैक्टरी 413555/13PR/403

To

दिनांक 20/12/21

The D.D.E.
District South,
Defence Colony,
New Delhi

Sub : Payment of Pay fixation a/coc. in
a/c Sh. R.B.C. Gupta, Rtd. V.P.

Sir,

It is to submit that the pay fixation
adverse bill of Rs. 960/- in a/c Sh. R.B.C. Gupta
has been returned back by P.A.O I with
remarks 'Since case is time barred, sanction
of C/o is required'.

Therefore, the bill in original is enclosed
for getting the sanction of competent authority.

Thanking you,

End. W.A.

Yours faithfully
Gangaram
Govt. Boys Pr. Sec. School
Badarpur, New Delhi-110 044

8