



Central Administrative Tribunal Jammu Bench, Jammu

T.A. No.227/2020
(S.W.P. No.2943/2002)

Friday, this the 15th day of January, 2021

(Through Video Conferencing)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

Rashid Akhtar (age 60 years) : W/o Late Mohd Sharief Qureshi, R/o Ward No. 9, Rajouri, Tehsil & District Rajouri.

..Applicant

(Mr. Mohd. Arif and Mr. Halim Ali, Advocates)

Versus

1. State of Jammu and Kashmir through its Chief Secretary, Civil Secretariat, Jammu.
2. Accountant General, A&B, J&K, Jammu.
3. Commissioner/Secretary to Government, Revenue Department, J&K Government, Civil Secretariat, Jammu.

..Respondents

(Mr. Sudesh Magotra, Deputy Advocate General)

O R D E R (ORAL)

Mr. Justice L. Narasimha Reddy:

The applicant (Mohd, Sharief Qureshi) filed SWP No.2943/2002 before the Hon'ble High Court of Jammu & Kashmir claiming the relief of dearness allowance and interest upon a sum of Rs.63,938/-from 01.01.1995 to 09.08.2002.

2. The brief facts of the case are that he retired from service on 31.12.1994. There was some delay in release of his pensionary benefits. He filed SWP No.674/2002 before the

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Hon'ble High Court of Jammu & Kashmir earlier, and in compliance with the directions issued therein, the respondents released a sum of Rs.63,938/-towards gratuity. According to the applicant, the gratuity ought to have been worked out on the basis of 20% of basic pay and instead, the respondents paid him @ 16 1/2 of the basic pay. It is also stated that the interest ought to have been paid thereon. Another contention of the applicant is about the correction in date of birth.

3. The respondents filed reply, stating that the delay in payment of gratuity was on account of some uncertainty, and within a short time, the amount was paid towards gratuity, in terms of the directions of the Hon'ble High Court. It was also stated that the gratuity @ 20% is payable under SRO No. 26 dated 09.02.1995 to the employees, who retired subsequent to 01.01.1995 and since the applicant retired earlier to that, the benefit thereunder cannot be granted to him. Various contentions urged by the applicant are denied.

4. During the pendency of SWP, the applicant, Mohd. Sharief Qureshi, died and his wife, Rashid Akhtar was brought on record as legal representative.

5. In view of re-organization of the State of Jammu, the SWP has since been transferred to this Tribunal and registered as T.A. No.227/2020.

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6. Today, we heard Mr. Mohd. Arif, learned counsel for applicant and Mr. Sudesh Magotra, learned Deputy Advocate General, through video conferencing.

7. The prayer in the T.A. is twofold. The first is for payment of dearness allowance @ 20% of basic pay under SRO No.26 dated 09.02.1995. It is not in dispute that the SRO covers the employees, who retired from 01.01.1995 onwards and that the applicant has retired on 31.12.1994. Therefore, the claim of dearness allowance @ 20% of basic pay cannot be sustained in law. The second plea is about the interest upon the gratuity, which was paid to the applicant in compliance with the directions issued by the Hon'ble High Court of Jammu & Kashmir in SWP No.674/2002. Unless the Hon'ble High Court ordered payment of interest on the said amount, the applicant cannot claim for it. The plea as to the date of birth becomes irrelevant at this stage.

8. We do not find any merit in this T.A. It is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

January 15, 2021

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