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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No. 393/86

.. Date of decision: 17-7-92

Sh. Harminder Singh

.. Applicant

Sh. H.S. Dhir

.. Counsel for the applicant

Versus

U.O.I. & Others

.. Respondents

Sh. O.N. Moolri

.. Counsel for the Respondents.

CORAM

The Hon'ble Mr. P.K. Kartha, Vice Chairman (J)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporters or not ? *yes*

JUDGEMENT

(Of the Bench delivered by Hon'ble Shri B.N.Dhoundiyal,
Member (A).)

This application has been filed under Section 19 of the Administrative Tribunal's Act, 1985 by Sh. Harminder Singh Chaudhary, a retired Goods Clerk, Northern Railway, New Delhi, against non-payment of gratuity due to him. The applicant was appointed as a Goods Clerk on Delhi Division, Northern Railway in 1953 and retired after attaining the age of superannuation in the afternoon of 30th June, 1983. All other claims of the applicant including pension were settled, but the gratuity amount of Rs. 14,157 was not paid to him inspite of his personal approaches, reminders and notices etc. The applicant has prayed that the gratuity be released to him with interest of 18% p.a. with effect from 1.7.1983.

2. On 28.5.86, an interim order was passed directing the respondents to make the payment of gratuity within two months. The respondents were given a number of opportunities to file the counter and their failure to do so culminated in the order dated 17th March, 1987, forfeiting their right to file the counter. The application was dismissed for default for non-

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prosecution on 1.7.92 and later a request being made by the counsel for the applicant, it was fixed for final hearing on 3.7.92. On that date, we recalled the previous order dated 1.7.92 and we heard Shri H.S. Dhir, Counsel for the applicant and Shri O.N. Moolri, Counsel for the respondents. The counsel for the applicant has drawn our attention to the Full Bench Judgement of the Tribunal in OA No. 2573/89 Wazir Chand Vs. U.O.I. & Ors. decided on 25.10.90 (Full Bench Judgements of CAT 1989-91 Vol.II page 287) where the Tribunal came to the following conclusions :-

- "(1) Withholding of entire amount of ^{gratuity of} a retired railway servant as long as he does not vacate the railway quarter is legally impermissible.
- (ii) Disallowing one set of post-retirement passes for every month of unauthorised retention of railway quarter is also unwarranted.

Issue No.2 :

- (i) A direction to pay normal rent for the railway quarter retained by a railway servant in a case where DCRG has not been paid to him would not be legally in order.
- (ii) The quantum of rent/licence fee including penal rent, damages is to be regulated and assessed as per the applicable law, rules, instructions etc. without linking the same with the retention/non-vacation of a railway quarter by a retired railway servant. The question of interest on delayed payment of DCRG is to be decided in accordance with law without linking the same to the non-vacation of railway quarter by a retired railway servant.
- (iii) Direction/order to pay interest is to be made by the Tribunal in accordance with law keeping in view the facts and circumstances of the case before it. "

3. The learned counsel for the respondents stated that the applicant continued to occupy the railway quarter even
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after his retirement without applying for retention. Referring to the instructions issued by the G.M., Northern Railway on 15.3.88, he contended that the respondents could withhold the entire amount of gratuity till the vacation of the quarter. The applicant retired on 30.6.83 and the gratuity amount was paid to him on 17.6.88. In this context, we may refer to the following observations made by the Hon'ble Supreme Court in SLP No. 7688-91/88 in Raj Pal Wahi & Ors. Vs. UOI & Ors:

"In such circumstances we are unable to hold that the petitioners are entitled to get interest on the delayed payment of death-cum-retirement gratuity as the delay in payment occurred due to the order passed on the basis of the said circular of Railway Board and not on account of administrative lapse. Therefore, we are unable to accept this submission advanced on behalf of the petitioners and so we reject the same".

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Following the ~~order~~ of this judgement, another Bench of this Tribunal where one of us was a member (Shri P.K. Kartha) has held in OA No. 2807/91, decided on 8.5.92, that the applicants would be entitled to get interest on the delayed payment of Death-cum-retirement gratuity only when this delay occurs on account of administrative lapse and not due to the authority following the existing instructions on the subject.

4. In view of the above, as the authorities were only following the instructions contained in the General Manager, Northern Railway's Circular dated 15.3.88 for withholding the gratuity till the vacation of the quarter by the applicant, no interest would be payable for the period he remained in the occupation of the quarter. However, we find no justification for delaying the payment of gratuity minus the rent due, after the

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quarter had been vacated by the applicant.

5. We, therefore, order that the applicant will be entitled to an interest of 12% p.a. on the outstanding ^{due} gratuity amount from the date he vacated the railway quarter till the date when gratuity amount was paid to him. The amount due shall be sent by the respondents to the applicant preferably within a period of 3 months from the date of receipt of this order by a crossed cheque without requiring the applicant to follow any procedures or formalities.

The parties will bear their own costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal) 17/7/92
Member (A)

P.K. Kartha
17/7/92
(P.K. Kartha)
Vice Chairman(J)