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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 156
T.A. No.

1987.

DATE OF DECISION 18.8.1987

Shri Bansi Dhar Petitioner

Shri B.K.Choudhry, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri O.N.Moolri, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. S.P. Mukerji, Administrative Member

The Hon'ble Mr. Ch.Ramakrishna Rao, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?

Ch.Ramakrishna Rao
(Ch. Ramakrishna Rao)
Judicial Member

S.P. Mukerji
(S.P. Mukerji)
Administrative Member

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH :DELHI

Regn. No. OA-156/87

Date: 18.8.87.

Shri Bansi Dhar

.. Applicant.

Versus

Union of India & Ors.

.. Respondents.

For Applicant.

.. Shri B.K.Choudhry,
Advocate.

For Respondents.

.. Shri O.N.Moolri,
Advocate.

CORAM Hon'ble Shri S.P.Mukerji, Administrative Member
Hon'ble Shri Ch.Ramakrishna Rao, Judicial Member

JUDGEMENT
(Delivered by Shri S.P.Mukerji)

The applicant who is a retired Senior Parcel Clerk of the Northern Railway moved the Tribunal by his application dated 5.2.1987 under Section 19 of the Administrative Tribunals Act praying that a decree for Rs.10,032 as penal interest on delayed payment of his gratuity of Rs.10,791.80 for the period from 1.1.1982 to 24.7.1985 at 20% rate of interest along with additional interest from 25.7.85 till the date of actual payment may be passed in his favour.

2. The brief facts of the case as indicated in the application are that he was retired from ^{the} railway service pre-maturely on 31.12.81 by the Divisional Railway Manager, Northern Railway, Moradabad and all retirement dues except gratuity were released. The gratuity amount of Rs.10,791.80p. was released on 24.7.85 vide a cheque ^{dated} of 18.7.1985 without any valid justification for the delay of 3½ years in payment. The applicant has quoted the ruling of the Supreme Court in State of Kerala & Ors. Vs. M.Padmanabhan Nair, AIR-1985-SC-356 for his claim of being paid penal rate of interest on the delayed payment of gratuity at

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20% rate of interest, from 1.1.1982 when the gratuity amount became due, to 24.7.85 when it was actually released and thereafter further interest on the penal interest between the 25.7.85 and the date of payment. He indicated that he has been representing to the authorities on 13.8.85, 14.12.85 and 21.2.86 and also moved the Pension Adalat on 13.7.86 with reminder on 23.12.1986 without any effect. Unfortunately, the respondents despite information and various opportunities given for filing counter-affidavit failed to give any reply and hence on 28.5.87 in the presence of Shri O.N. Moolri, Advocate for the respondents it was ordered ~~on~~ ^{number} 28.5.87 that the judgement will be delivered on 29th of July, 1987. Till the 29th of July, 1987, there has been no representation or any reply filed by the respondents, hence this judgement is being delivered on the basis of the available documents. According to the averments made by the applicant, all retirement benefits except gratuity was released to him when he was retired pre-maturely on 31.12.1987. He has also quoted Cheque No. 0413482 of 18.7.85 by which the gratuity of Rs. 10,791.80p. was sent to him on 24.7.85. Thus, there has been a delay of 3½ years in the payment of his gratuity. In State of Kerala & Ors. Vs. M. Padmanabhan Nair, AIR-1985-SC-356 cited by him in the application the Supreme Court observed as follows:

"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."

..... "The necessity for prompt payment of the retirement dues to a

Government servant immediately after his retirement cannot be overemphasised and it would not be unreasonable to direct that the liability to pay penal interest on these dues at the current market rate should commence at the expiry of two months from the date of retirement."

"Unfortunately such claim for interest that was allowed in respondent's favour by the District Court and confirmed by the High Court was at the rate of 6 per cent per annum though interest at 12 per cent had been claimed by the respondent in his suit. However, since the respondent acquiesced in his claim being decreed at 6 per cent by not preferring any cross objections in the High Court it would not be proper for us to enhance the rate of 12 per cent per annum which we were otherwise inclined to grant."

In the instant case, even though the applicant has been said to have been retired by the respondents themselves two years prior to his superannuation and all retirement and terminal benefits were released to him immediately thereafter, it was incumbent upon the respondents to release the gratuity amount also immediately after his pre-mature retirement. No ^{verbal} reason has been forthcoming from the respondents despite repeated notices about the application: muchless about the delay in the payment of gratuity. Accordingly, this Bench has been forced to pass this order without any assistance whatsoever from the respondents and their learned Counsel. Since there is nothing on record to doubt the veracity of the statement made by the applicant in accordance with the aforesaid ruling of the Supreme Court, we allow the application with the following directions: The application is allowed. The respondents are directed to verify if the amount of gratuity due to the application ^{int} on 1.1.1982 was Rs. 10,791.80. If so, he should be paid the penal interest of 18% for the period 1.3.1982 to the date of actual payment.

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If, however, the amount of gratuity standing to his credit on 1.1.1982 is some other amount, the penal rate of interest as indicated above should be paid on that amount till the date of actual payment after adjusting the interest, if any, paid to him for ^{the} whole or in part of this period between the 1.1.1982 and date of actual payment. We also direct that the verification and payment of interest as directed above should be made good to the applicant within 2 months of the communication of this Order.

Ch. Ramakrishna Rao
(Ch. Ramakrishna Rao)
Judicial Member

S. P. Mukerji
(S. P. Mukerji)
Administrative Member