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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI
OA 1769/87 Date of decision: 10.05.93
Sh. B.S. Aggarwal .. Applicant
Versus
Union of India Respondents

For the applicant... Sh. S.N. Gupta, Counsel.
For the respondents... Sh. O.N. Moolri, Counsel.

CORAM

Hon`ble Sh. A.B. Gorthi, Member (A)
Hon`ble Sh. C.J. Roy, Member (J)

JUDGEMENT (Oral)
(Delivered by Hon`ble Sh. A.B. Gorthi, Member (A)

The grievance of the applicant herein is firstly against the withholding of a sum of Rs. 6300.70 from his gratuity amount and secondly against the delayed payment of the balance of gratuity amount and commuted value of pension.

2. The authorities concerned held a preliminary enquiry at which they came to the conclusion that the applicant together with some other employees was responsible for the loss of some Government property. The applicant was neither served with a charge memo nor any regular departmental disciplinary proceedings

were initiated against him. The learned counsel for the applicant, therefore, vehemently contended that the action taken by the respondents in withholding the part of the gratuity is irregular.

3. In their brief counter affidavit, the respondents have clarified that as the preliminary enquiry held the applicant and some other officials responsible for the loss of Railway material valued at Rs. 32,200, it was decided to recover a sum of Rs. 6300.70 from the gratuity due to the applicant. Although the pension amount that was due to the applicant was paid to him vide PPO No. 0186396 in March 1986, there was some delay in the payment of commuted value of pension to him. An amount of Rs.36,025/- was finally paid to him vide PPO No. 01866376 dated 2.7.86. Simultaneously, after deducting an amount of ~~3600.25~~^{6300.70}, the balance amount of Rs. 25236.30 was paid vide order No. 0200060 dated 2.7.86.

4. Admittedly, a joint enquiry was held into the loss of railway materials and some officials including the applicant were held responsible for the said loss. The specific allegation against the applicant was that he failed to perform his duties properly in that he ought to have checked certain materials before accepting the Advice Notes. As a result of the applicant's negligence, some wrong material was accepted resulting in a loss to the administration.

After the preliminary enquiry, neither any charge memo was served upon the applicant nor a regular departmental disciplinary enquiry instituted against him. In these circumstances, the imposition of deduction from the gratuity of the applicant cannot stand the scrutiny of law.

5. We, therefore, direct the respondents to pay the applicant the amount of gratuity that was withheld by them. The amount should be paid to the applicant within a period of 3 months from the date of communication of this order together with interest at the rate of 12% per annum. As regards the delayed payment of commuted value of pension, we are of the view that the applicant will be entitled to interest at the rate of 10% for the period from 1.5.86 to 2.7.86 only. The said amount also shall be paid within 3 months.

6. The application is allowed in the above terms and there shall be no order as to costs.

Prasenjeet
(C. J. Roy)

Member (J)

Prasenjeet
(A. B. Gorthi)

Member (A)

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