

RA 215/1991 in OA 399/1987

SHRI R. KAPUR VS. DIRECTOR OF INSPECTION (P & P) INCOME-TAX
& ANOTHER

The present Review Application has been filed against judgement passed in OA 399/1987 dt. 29.8.1991. The relief claimed in the Original Application was a direction to the respondents to pay the full gratuity without delay alongwith bank interest @ 18% p.a. from 1.3.1986 till the date of payment and a further direction to Directorate of Estates to give effect to the orders of the Additional Session Judge and High Court. The application was allowed in part and the respondents were directed to pay the outstanding amount of DCRG to the applicant with interest @ 10% from 1.6.1986 till the date of payment. Regarding the second direction prayed by the applicant, the same was disallowed. The grievance of the applicant is that there is no comment in the judgement about the pleas of the applicant narrated in paragraphs 3 to 7 of the Review Petition. The applicant has stated in para-3 that no amount was legally due from him and this plea has not been adjudicated upon. However, this is not the prayer in the Original Application where the only prayer has been for the payment of DCRG. The applicant has not prayed for a direction that no amount is due from him to the respondents. The applicant cannot, therefore, reopen the whole matter afresh. In para-4, the applicant has only averred that no finding on the failure of the respondents in paying DCRG has been given, but it is not at all material since the relief claimed by the applicant

for the payment of DCRG has already been allowed. In para-5, the applicant referred to certain false averments made in the reply filed by the respondents to the Original Application, but this is not material either for the decision of the Original Application or this Review Petition. In para-6, the applicant has referred to the ground of interest at the market rate. The applicant has already been allowed interest @ 10% p.s. and he cannot reopen the matter again. In para-7, the applicant has referred to the fact that the payment of retirement gratuity and recovery of damages for unauthorised occupation are two different matters. This point has no bearing on the decision of this case. However, the direction (b) of the judgement in the OA deals with the matter exhaustively. So the applicant cannot have any grievance that this matter was not considered in the judgement under Review. The Review Application, therefore, has no force and is dismissed by circulation.

Jones
(J.P. SHARMA)
MEMBER (J) 23/12/91

Chakraborty
(D.K. CHAKRAVORTY)
MEMBER (A)