

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA NO. 836/87

DATE OF DECISION 3-8-1990.

DR. (MRS.) C.M. SETHI

APPLICANT

VERSUS

UNION OF INDIA & OTHERS

RESPONDENTS

SHRI B.S. MAINEE

ADVOCATE FOR THE APPLICANT

SHRI D.N. MOOLRI

ADVOCATE FOR THE RESPONDENTS

CORAM:

THE HON'BLE MR. B.S. SEKHON, VICE-CHAIRMAN

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

JUDGEMENT

(DELIVERED BY HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

Dr. (Mrs.) C.M. Sethi, Assistant Divisional Medical Officer (ADMO) Northern Railway, filed this application on 19.6.1987 under Section 19 of the Administrative Tribunals Act, 1985, aggrieved by the order dated 27.3.1989 at Annexure-A-1 (page 12 of the paper book), advising her that death-cum-retirement gratuity (DCRG) amounting to Rs.29984.75 less Rs.28619.15. Net amount payable Rs.1365.10 has been passed for payment to her through Senior Cashier, DRM Office and that she should contact Senior Cashier to collect the money on any working day.

2. The facts of the case in brief are that the applicant retired as ADMO w.e.f. 31.3.1983. She did not vacate the railway accommodation as her own house was not vacated by her tenant and against whom eviction proceedings were in progress before the Rent Control Tribunal. She was permitted to retain the railway flat upto 30th June, 1984 on payment of market rate in terms of Railway Board letter No. E(0)83H N-

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4-12 dated 12.4.1984. She vacated the railway accommodation on 20.3.1986. In the meantime the respondents withheld payment of DCRG to her instead of retaining a part of the amount or 10 per cent of the DCRG subject to a maximum of Rs.1,000. Her main grievance is that while the rent for railway flat has been recovered from her gratuity at market/penal rate, no interest has been paid on the whole amount of DCRG which was withheld by the respondents, till she vacated the railway accommodation. Besides the interest on the DCRG she has also prayed for payment of conveyance allowance for the period 1.4.1981 to 30.3.1983, payment of which was also withheld pending vacation of the railway accommodation. The other claims made by the applicant are:-

- i) Sicklist period from 7.10.1980 to 27.10.1980 should be sanctioned as special disability leave, as she was on the sick-list consequent to an accident to the railway mobile medical van in which she was travelling while on duty.
- ii) Refund of the amount of Rs.2,834.12, wrongfully deducted from D.C.R.G.
- iii) Refund of lawn charges amounting to Rs.57/-
- iv) Restoration of credit of 14 days leave for the period from 28.3.1982 to 10.4.1982 which was not availed of and encashment thereof.

3. The claim for the payment of interest and delayed payment of DCRG was sought to be fortified by the learned counsel of the applicant by drawing our attention to the decision of the Supreme Court in State of Kerala and Others Vs. M. Padmanabhan Nair reported in AIR 1985 SC, 356 where it was held that the liability to pay penal interest on pension and gratuity at the current market rate commences at the expiry of two months from the date of retirement.

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Advocate, Shri B.S. Mainee also cited the decision of High Court of Delhi in CCP No.9/82 in CWP No.145/89 and CAT Principal Bench, Delhi judgement dated 10.11.1988 in OA No.1737/88. Other citations 1970, SLR, SC, 383, General Manager, North East Frontier Railway and Others Vs. Dinabandhu Chakraborty and 1972, SLR, Delhi High Court, 731 B.B. Dutta Vs. Union of India are distinguishable from the facts of the present case, while the case of M. Gopalkrishna Naidu Vs. State of MP, AIR, 1968, SC 240 refers to the opportunity to show cause is in the context of the departmental proceedings taken against an employee. Advocate, Shri Mainee further submitted that when the applicant made representation for payment of dues/treatment of leave period etc. she was told vide Annexure-III & IV (page 14 & 15 of the paper book) that these matters will be settled/taken up only after she had vacated the railway accommodation. The learned counsel, therefore averred that the reliefs claimed by the applicant are consequential to the main relief viz. payment of DCRG, consequent to her vacation of the quarter.

4. Advocate, Shri O.N. Moolri, appearing for the respondents submitted that the applicant is seeking plural remedies which are not permissible under Rule 10 of the Central Administrative Tribunals (Procedure) Rules, 1987. He, however, conceded that the claim for payment of DCRG and interest cannot be faulted. The other claims referred in the OA cannot be termed as consequential to one another. They constitute all separate and independent causes of action.

The learned counsel also submitted that some of the claims are time barred and they cannot be entertained by the Tribunal. Applicant can, however, make representation to the department and seek redressal of her grievances through



the departmental channel.

5. We have considered the submissions made by the learned counsel of both the parties and perused the record carefully. We are of the view that the main relief/claim relating to payment of DCRG and interest thereon and the reliefs like refund of lawn charges, payment of conveyance allowance, treatment of leave period and refund of wrong recovery of Rs.2834.12 are not consequential to one another and that they should have been agitated as and when the cause of action arose. We are not, therefore, inclined at this point of time to consider the claims regarding conveyance allowance, refund of lawn charges, refund of recovery of Rs.2834.12 and treatment of leaves periods relating to 1980 and 1982. These are all separate claims and prima facie attract Section 21 of the Central Administrative Tribunals Act. The applicant, however, will be at liberty to pursue these claims directly with the respondents.

Regarding the main claim for payment of interest on the amount of DCRG we observe that the respondents have recovered the rent for the quarter on penal/market rate for the period of over-stay from the applicant. There would thus appear to be little justification for non-payment of interest in the DCRG at the appropriate rate.

In the facts and circumstances of the case, we order and direct that the respondents shall pay interest at 12%^{A.A.} on the amount of DCRG due to the applicant from 1.7.1984 till the date of actual payment within three months from the date of communication of this order. For the period upto 30.6.1984, the respondents shall pay interest on the D.C.R.G. at the appropriate rate as

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admissible under the Rules. As earlier brought out we are not passing any order in regard to other claims. The applicant will be at liberty to approach the Tribunal, under the law, if necessary. The application is disposed of with the above directions with no orders as to the costs.

R. S. Sekhon
(I.K. RASGOTRA) 3/8/90
MEMBER (A)

R. S. Sekhon
(B.S. SEKHON)
VICE-CHAIRMAN

3-8-90