

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

RA No.237/91

Date of Order: 03-07-1992.

In OA No.2807/91

Shri V. Samuel

...Applicant

Versus

Union of India

...Respondents

Coram :-

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

The Hon'ble Mr. I.K. Rasgotra, Administrative Member

O R D E R

The above R.A. has been filed on 10.6.1992 seeking review of our judgement in V.Samuel Vs. Union of India OA No.2807/91 decided on 8.5.1992 on the following grounds:-

- i) Vacation of the Railway quarter could not be a pre-condition for payment of D.C.R.G. to a retired employee.
- ii) The Full Bench of the Tribunal in Wazir Chand Vs. Union of India decided on 25.10.1990 the Tribunal had held that payment of pension including gratuity should be made promptly and interest at the rate of 10% per annum be paid on the delayed payment of gratuity for the period beyond three months (Rule 2308 R-II).

The Full Bench further held that withholding of the entire amount of gratuity is not legally in order for failure/~~omission~~ to submit 'no claim certificate' and that the Full Bench relied on the Hon'ble Supreme Court's decision in the case of **State of Kerala & Ors. Vs. M. Padmanabhan Nair AIR 1985 SC 356**. Accordingly it has been prayed that the review applicant be allowed interest at the rate of 15% which he would have earned if the amount of D.C.R.G. has been fixed in the fixed deposit.

The review applicant further submits that there is an error apparent on the face of the judgement inasmuch as that the judgement authorises recovery of penal rent from the applicant and seeks payment of normal licence fee for the period of unauthorised stay in the Railway quarter, relying on paragraph 21 of the **Wazir Chand** (supra) Full Bench judgement.

We have gone through the record of the case and considered the submissions made in the review application carefully. The Full Bench Judgement of the Tribunal no longer holds the field as subsequently the Hon'ble Supreme Court has declared the law on identical issues of law and of fact in **Raj Pal Wahi & Ors. Vs. UOI & Ors. SLP No.7688-91 of 1988**. The Hon'ble Supreme Court in the said judgement observed:-

"The only ground of challenge was that the Railway authorities were wrong in withholding the death-cum-retirement gratuity and complimentary passes on the basis of administrative instructions issued by the Railway

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Board dated 24.4.1982."

(X)

After discussing the matter the Supreme Court:-


"There is no dispute that the petitioners stayed in the Railway quarters after their retirement from service and as such under the extant rules penal rent was charged on these petitioners which they have paid. In order to impress upon them to vacate the Railway quarters the Railway Authorities issued orders on the basis of the Railway Circular dated 24th April, 1982, purporting to withhold the payment of death-cum-retirement gratuity as well as the Railway passes during the period of such occupation of Quarters by them. The delay that was occurred is on account of the withholding of the gratuity of the death-cum-retirement gratuity on the basis of the aforesaid Railway Circular. 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. The Special Leave Petition is thus disposed of. The


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respondents, however, will issue the passes prospectively from the date of this order."

The only error on the face of record is that in our judgement dated 8.5.1992 the operative part of **Raj Pal Wahi** (supra) was produced in part. This has been rectified by reproducing the full operative part of the **Raj Pal Wahi** (supra) case. Besides the above there is no error apparent on the face of record nor has any new evidence been brought out which was not available to the review applicant with exercise of due diligence. In the circumstances, the Review Application is disposed of as above, in circulation.


(I.K. RASGOTRA)
MEMBER (A)


(P.K. KARTHA)
VICE-CHAIRMAN

July 3, 1992.