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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI.

O.A.No.1940 of 1993.

NEW DELHI, this the 24th day of November, 1993.

HON'BLE MR. B.N.DHOUNDIYAL, MEMBER(A)

Shri O.N.Srivastava, I.P.S.(Retd.),
Former Special Director,
Intelligence Bureau,
Ministry of Home Affairs,
Govt. of India, New Delhi.
R/O C-II/43, Tilak Lane,
New Delhi-110001. .. . Applicant.

(by Mr M.L.Chawla, Advocate) -
& Sh S.L. Lakhanpal, Advocate) *
vs.

Added as per
*Court's orders
dt. 17-12-93.

1. Union of India
(through the Home Secretary,
Ministry of Home Affairs,
Govt. of India,
North Block, New Delhi.
2. The Accountant General II,
Madhya Pradesh, Gwalior(M.P.)
3. The Director of Estates,
Directorate of Estates,
Government of India,
Ministry of Urban Development,
Nirman Bhawan, New Delhi.
4. The Director,
Intelligence Bureau, M.H.A.,
Govt. of India,
North Block, New Delhi-110001.

.... Respondents.

(Respondents No.1,2 & 4 through
Mr N.S.Mehta, Advocate).

(Respondent No.3 through Mr George
Paracken with Mr P.P.Khurana, Advocates).

ORDER(oral)

B.N.Dhoundiyal, Member(A)

The applicant, a member of Indian
Police Service, belonging to Madhya Pradesh
Cadre superannuated as a Special Director
from the Intelligence Bureau, Ministry of Home
Affairs, Government of India, New Delhi on 30.4.1993.
Bv

He was sanctioned his retirement benefits vide order dated 16.4.1993 alongwith D.C.R.G. amounting to Rs.1,00,000/-. On 21.5.1993, the Ministry of Urban Development wrote a letter to the Ministry of Home informing that the Officer had not vacated the Government quarter Flat No.C.II/43, Tilak Marg even after the concessional period permissible under the Rules was over. Since this made the officer liable to pay the damages a request was made that accounts may not be settled finally without obtaining 'no demand certificate' from the Directorate of Estates. The Accountant General, Madhya Pradesh, however, issued a release order for the D.C.R.G. on 24.8.1993.

2. The applicant has prayed that the respondents be directed to release the entire amount of gratuity with penal interest @ 18% since the inordinate delay is clearly attributable to the respondents.

3. I have gone through the records of the case and heard the learned counsel for the parties. The learned counsel for respondent No.2 has argued that the release order ^{was by} issued on 16.8.1993 and a copy was sent to the applicants' address given by him in the pension papers. The learned counsel for the applicant has argued that the address was not correctly written and he never received a copy of this release order. In any ⁱⁿ case/paras 2 and 3 of the release order, a condition is laid down that the amount would be released subject to certain conditions, one of them being settlement of account due to his occupying government residential house. Again, even if the applicant had received this order, the amount of D.C.R.G. ⁱⁿ

would not have been released till the letter dated 21.5.1993(Annexure A-1) was withdrawn. Subsequently, the applicant was permitted to retain the accommodation on payment of double standard rent in advance till 31.12.1993. In this case, the withholding of the total amount of D.C.R.G. or making the release conditional on settlement of rent for the residential house, was not justified. The appropriate course for the respondents could have been to follow the provisions of Rule 19-C of the All India Services(Death-cum-Retirement) Benefit Rules, 1958, which provides that :-

Where a retiring member of the Service does not clear the Government dues and such dues are ascertainable-

- a) an equivalent cash deposit may be taken from him; or
- b) an equivalent amount shall be deducted from the gratuity and the death-cum-retirement gratuity.

The explanation to this Rule clarifies that such dues which are ascertainable shall include balance of house building or conveyance advance, arrears of rent and other charges pertaining to occupation of government accommodation etc. etc.

Rule 19-A provides for payment of interest on delayed payment of gratuity / death-cum-retirement gratuity has been authorised after three months from the date when its payment became due, and it is clearly established that the delay in payment was attributable to administrative lapse, interest at the rate prescribed by the Central Government from time to time shall be paid on the amount of gratuity or death-cum-retirement gratuity in respect of the period beyond three months. Bv
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4. In this case, it is an admitted fact that the payment was delayed on account of the letter

Bv

dated 21.5.1993 issued by the Directorate of Estates. The applicant having been allowed to retain the accommodation till 31.12.1993, the appropriate course would have been to make ^{him} deposit the advance rent and get an undertaking that he would clear all the electricity and water charges.

5. In view of above, the application is disposed of with the direction to the respondents to release the amount of Rs.99,000/- out of the amount of gratuity, thus retaining Rs.1000/- for possible electricity and water charges. The respondents shall pay interest in accordance with the provisions of Rule 19-A of the All India Services(Death-cum-Retirement) Rules, 1958. It is understood that a similar provision as in case of other Central Services is applicable in this case, i.e. after a period of three months of retirement and upto one year, the interest will be payable at 7% and thereafter @ 10% p.a. till the date of actual payment. The applicant shall give an undertaking that if the actual bills for electricity and water or any other charges exceed the amount of Rs.1000/- , he will deposit the same with the respondents.

6. With the above directions, the O.A. stands disposed of with no order as to costs.

23rd Nov., 1993.
/sds/

B. N. Dhoundiyal
(B.N.Dhoundiyal)
Member(A).