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Central Administrative Tribunal
Principal Bench: New Delhi

O.A. 2386/93

New Delhi this the 14th of September, 1994

Hon'ble Shri J.P. Sharma, Member (J)

Faquir Chandra Sharma,
Retired Chief Inspector of Works,
R.P.S. Flat No. 202, Khanpur,
New Delhi.

... Applicant

(By Advocate: Shri R.L. Sethi)

with Sh. A. Kalia

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Vs

Union of India,

1. The General Manager,
N.E. Railway,
Gorakhpur.

2. The Divisional Railway Manager,
N.E. Railway,
SONPUR.

... Respondents

(By Advocate: Sh. H.K. Gangwani)

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Hon'ble Shri J.P. Sharma, Member (J)

The applicant retired as Chief Inspector of Works from the Northern Eastern Railway. He has the grievance of delayed payment of retirement benefits, and that certain short payment has been made. He has prayed that the amount deducted from his gratuity Rs.2,220/- be also refunded to him with penal rate of interest from 1.5.1993 alongwith interest on the delayed payment of DCRG and other benefits.

A notice was issued to the respondents but in spite of service none appeared for the respondents. on 16.5.1994, Shri H.K. Gangwani appeared for the respondents and prayed for time to file the reply. Further, reply was not filed in spite of six other adjournments each of about a month

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granted to the counsel for the respondents. The matter, therefore, was heard. Shri H.K. Gangwani, counsel for the respondents also submitted his oral submissions.

The applicant vacated the railway quarter on 31.8.1990 within two months after his retirement, and therefore, there was no jurisdiction for the respondents to charge penal rent of the allotted premises i.e Rs. 1150/- per month while the normal licence fee was Rs. 40/- per month. The respondents have recovered Rs. 2,220/- from the applicant in excess. The applicant retired on June 30, 1990 but his retirement benefits were delayed. The DCRG amounting to Rs. 52,800/- was released in April 1993, the leave encashment amounting to Rs. 35,328/- was released on 24.8.1993. The transfer and packing allowance was paid on 15.3.1992 amounting to Rs. 3,450/-. The GPF balance was paid on 26.11.1992 amounting to Rs. 80,490. The commutation amount of Rs. 66,275/- was paid on 15.10.1990. The Group Insurance amounting to Rs. 2,414/- was paid on 26.11.1990. Since there was nothing to show that the delay was not due to any fault of the respondents and the counsel for the respondents Shri H.K. Gangwani could not justify the delay, as such, the applicant is entitled to interest on the delayed payment of the amount as well as to the refund of excess licence fee/rent recovered from him from the gratuity. It has been clearly held in the case of Union of India Vs. Justice S.S. Sandhawala reported in 1994(26) ATC P 922 that if the delay in payment is not due to the fault of the applicant then the aggrieved party is to be compensated for delay in payment of the amount due to him. In view of this fact the applicant is entitled to interest on the amount of DCRG, Leave Encashment. As regards the GPF

the applicant has been paid the amount and if he was paid less then he should have raised the issue for payment of interest with the respondents which he has not done. The amount of Group Insurance, commutation of pension and transfer and packing allowance can only be paid after certain formalities are fulfilled. There has not been any inordinate delay in the payment of these amounts. No administrative lapse can be attributed to the respondents in that regard.

The application, therefore, is partly allowed with the following directions:

- a) The respondents shall refund the amount of Rs. 2,220/- to the applicant wrongly deducted from his DCRG with 10% interest till the date of payment.
- b) The respondents are directed to pay interest @ 12% per annum on the delayed amount of DCRG from 1.7.1990 after the date of retirement till the date of payment i.e. 28.4.1993.
- c) The applicant is also entitled to 12% per annum interest on the amount of Leave Encashment of Rs.35,328/- from 1.7.1990 till the date of payment i.e. 24.8.1993. The other reliefs claimed by the applicant are disallowed.

The respondents to pay the amount within three months from the receipt of the copy of the order. Costs on parties.

J.P.Sharma

Mittal*

(J.P.Sharma)

Member(J)

Mittal