

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 15th day of May 1998.

Original Application no. 317 of 1996.

Hon'ble Mr. S. Dayal, Administrative Member.

R.L. Pandey, S/o Shri R.N. Pandey, last employed as
Catering Inspector, Northern Railway, Allahabad,
R/o 10 Shivajee Marg, Rajroop pur, Allahabad.

.... Applicant

C/A Shri Dev Sharma
Shri K.N. Kathyar

Versus


1. Union of India through the General Manager, Northern Railway, Head Quarter Office, Baroda House, New Delhi.
2. The General Manager, Northern Railway, Head Quarters Baroda House, New Delhi.
3. The Divisional Railway Manager, Northern Railway, Allahabad.
4. The Senior Divisional Commercial Manager, Northern Railway, Allahabad.

.... Respondents

C/R Shri A. Tripathi.

O R D E R

Hon'ble Mr. S. Dayal, Member-A.

 This is an application under section 19 of the
Administrative Tribunals Act, 1985.

....2/-

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2. The applicant has filed this application seeking the following reliefs:-

- i. payment of entire gratuity to the applicant with penal interest @ 18% p.a. from the date of his retirement on 31.10.94 up to the date of payment.
- ii. a direction to the respondents to pay cost of the application to the applicant.

3. The facts as narrated by the applicant in his application are that he was working as Catering Inspector Incharge of Catering Unit at Allahabad Railway Station from 30.04.94 to 31.10.94. He handed over the complete charge of the ~~by~~ stock items to Shri Ram Achal, Catering Inspector, Allahabad on 31.10.94 and receipt was obtained from Shri Ram Achal for the same. The applicant has been paid all his retirement dues except gratuity which amounted to around Rs. 40,000/- and the applicant has not been paid any gratuity so far. He approached the respondents by his representation dated 23.03.95 and reminders dated 05.05.95, 12.06.95, 03.08.95, 28.08.95 and 05.10.95 without any result or response. He claims ~~to~~ penal interest of 18% as allowed by the Principal Bench in their judgment in O.A. 356 of 1987 between Bansidhar & Ors Vs. Union of India and others.

4. Arguments of Shri K.N. Kathiyar learned counsel for the applicant and Shri A. Tripathi, learned counsel for the respondents have been heard. Pleadings on record have been taken into account.

.....3/-

5. Learned counsel for the applicant mainly stress the ground that no show cause notice was given to the applicant while withholding his gratuity and amount of gratuity was withheld without assigning any reason or serving the show cause notice. The respondents in there counter reply have been mentioned that the amount of gratuity due to the applicant was Rs. 37620/- of which Rs. 36938.98 were to be recovered as per advice of the Senior D.C.M. Allahabad by his letter dated 21.07.95 and Rs. 540/- were due to rental charges and Rs. 745.32 towards electric charges and Rs. 231.40 over payment of salary. These two amounts together add up to Rs. 37620/- which was amount of gratuity, which was due to be paid to the applicant. Learned counsel for the respondents also mentions that ^{on} prayer of payment of gratuity or retirement benefits, ~~no dues certificates have to be~~ ^{obtained} from various authorities and since senior D.C.M. Allahabad was investigating into recoveries ^{due} from the applicant, such certificate was not given, and pending issuance of such certificate, gratuity was withheld.

6. It is settled law now that any recoveries which may be due at the time of retirement of a person can be made from the amount of gratuity also. However in this case it transpires that the applicant retired on 31.10.94 and the senior D.C.M. sent the intimation to senior D.P.O. on 21.07.95 that the amount of Rs. 36983.98 was due to be recovered from the applicant. There is no mention as to how this amount has been worked out. There is no whisper in the pleadings as to whether the applicant was informed to any amount to be recovered from him before this letter was sent to senior D.P.O. by the senior D.C.M. There is

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nothing at all to find out whether this amount was actually due on the date of retirement of the applicant. Applicant has mentioned that neither any disciplinary proceedings were involved ^{nor any} ~~any~~ financial liability were pending against the applicant nor any demand of subsisting out-standing debit against the applicant has been brought to his notice.

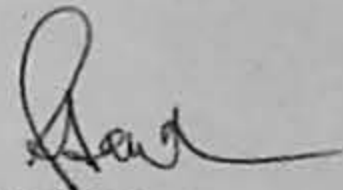
7. A question was put to the learned counsel for the respondents as to whether any notice has been issued to the applicant before the recovery was effected from his amount of gratuity. Learned counsel for the respondents sought time to make the inquiry about it from the respondents, as there is nothing in the pleadings to answer this query. Since the applicant has been denied payment of gratuity and the case before me is regarding that, I do not feel that any ~~more~~ ^{more} time can be allowed to the respondents to fill in the gap.

8. The adjustment of unexplained dues from the applicant from the amount of the gratuity which was payable to him at the time of retirement made by the respondents is, therefore, set aside. The respondents are directed to calculate the amount of gratuity payable to the applicant from 01.01.95 till the date of payment @ 12% interest and in case any dues are to be recovered from the applicant, he shall be given notice and if any recoveries of dues is established against him. The amount of recovery shall be deducted from the amount of gratuity to the applicant so calculated. The respondents shall have three months time to comply with the direction made in this order.

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9. The applicant shall be entitled to the cost of the application as per rules.


Member-A

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