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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 9TH DAY OF JANUARY, 2001

Original Application No. 790 of 1997

CORAM:

HON. MR. JUSTICE R.R.K. TRIVEDI, V.C.

Lal Behari Asthana, S/o Late
Vishwanath Prasad Asthana, R/o 69 C/1,
Chakiya, Allahabad.

... Applicant

(By Adv: Shri I.R.Singh)

Versus

1. Union of India through its
Secretary Telecom, New Delhi.
2. General Manager, Telecom
Mal Road, Kanpur Nagar.

... Respondents

(By Adv: Shri Amit Sthalekar)

O R D E R (Oral)

(By Hon. Mr. Justice R.R.K. Trivedi, V.C.)

Applicant Lal Behari Asthana has claimed by this OA u/s 19 of A.T. Act 1985 interest and damages on the amount of pension and gratuity @ 21% per annum on account of delay in making payments. Applicant was serving as Line Man in the department of Telecom. He was promoted to the post of Sub Inspector on which post he retired on 31.1.1994. The undisputed facts are that though amount of pension was paid to the applicant within a period of six months the amount of gratuity i.e. 24,586/- was paid to him on 18.2.1997 i.e. after about 3 years. Shri I.R.Singh learned counsel for the applicant has submitted that there was no legal and valid justification for withholding the amount of gratuity for such a long time.

Shri Amit Sthalekar on the other hand, submitted that applicant retained the government quarter which was

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allotted to him and vacated only on 11.5.1994 as reported by Estate Officer. It has also stated that applicant did not pay the electricity dues amounting to Rs.2625.50p and there was a legal justification for not paying the amount of gratuity. On the rate of interest also Shri Sthalekar submitted that 21% claim is highly excessive and it should not be more than 12 %.

I have considered the submissions of the learned counsel for the parties. Even if the case as set up by the respondents is accepted, for not paying the amount of gratuity expeditiously there appears no justification to withhold the amount after 11.5.1994. The dues which are stated to be due from the applicant could have been deducted as it was done subsequently in respect of amount of Rs.956/- .

~~The~~ Hon'ble Supreme Court and High court in number of judgements have directed to pay retiral benefits forthwith ~~within~~ without delay. The conduct of the respondents was contrary to the directions in this respect.

For the aforesaid reference may be made ~~on~~ the judgement of Hon'ble Supreme Court in a case of R.Kapur Vs.Director of Inspection(Painting and Publication) Income Tax and another (1995) 1 UPLBEC 89. The relevant paragraphs 9 & 10 are being reproduced below:-

9. This Court in M. Padnabhan Nair's(Supra) has held as under:

" Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate

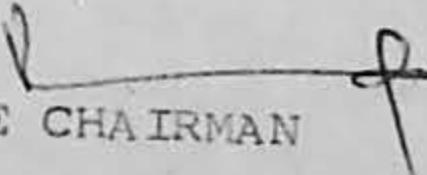


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for the interest for the delay in payment of gratuity @ 18% for the period from 12.5.1994 to 17.2.1997. It is further made clear that the respondents shall be entitled to deduct the amount due from the applicant in respect of the electricity charges and the rent of the government accommodation from 1.2.1994 to 11.5.1994. The amount shall be paid to the applicant within four months from the date a copy of this order is filed before ~~the~~ competent authority.

The application is allowed on the aforesaid terms and conditions. There will be no order as to costs.


VICE CHAIRMAN

Dated: 9.1.2001

UV/