

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH : ALLAHABAD

CIVIL CONTEMPT PETITION NO.08 OF 1997  
IN

ORIGINAL APPLICATION NUMBER 1643 OF 1993

ALLAHABAD, THIS, THE 13th DAY OF FEBRUARY, 2003

HON'BLE MR. JUSTICE R.R.RK. TRIVEDI, VICE-CHAIRMAN  
HON'BLE MAJ GEN K.K. SRIVASTAVA, MEMBER (A)

Krishna Dutta Mishra,  
Retired Head T.E.E., Northern Railway,  
Kanpur Central,  
s/o Late Pt. A.P. Mishra,  
r/o 104/434, 'P' Road,  
Kanpur.

.....Applicant

(By Advocate : Shri A. Gopal)

V E R S U S

1. Shri V.K. Agarwal,  
General Manager,  
Northern Railway,  
Barada House,  
New Delhi.
2. Shri M.N. Chopra,  
Divisional Rail Manager,  
Northern Railway,  
Allahabad.

.....Respondents

(By Advocate : Shri A.K. Gaur)

O R D E R

HON'BLE MR. JUSTICE R.R.K. TRIVEDI, VICE-CHAIRMAN

✓ This application <sup>has been filed</sup> under section 17 of  
Administrative Tribunals Act, 1985 for punishing the  
respondents for committing wilful disobedience of the





order dated 03.01.1996 passed in O.A. No.1643/93. The applicant retired from the post of Head Travelling Ticket Examiner, Northern Railway, Kanpur in the scale of Rs. 1400-2300/- on 31.08.1991. As the pension was not finalised, applicant filed O.A. No.1643/93 for direction to respondents. The O.A. was disposed of <sup>with</sup> ~~by~~ following directions on 03.01.1996:-

"Considering the above facts, application is allowed with following directions:

- (a) The applicant will be allowed the option of fixation of the pay on 01.01.84 and pay fixed accordingly
- (b) Pension and settlement dues to be calculated on that basis.
- (c) Over payment recovered from the gratuity shall be refunded.
- (d) Payment of interest @18% per annum will be paid for the delayed payment on the entire amount from the date the gratuity was due as per the extent rules.
- (e) The compliance of the directions will be done within a period of four months: "

2. Respondents filed counter reply stating therein that all the dues under the aforesaid order has been paid to the applicant. They also gave details of payments in Supplementary Counter Affidavit. The applicant further disputed that he has not been paid the amount. A Supplementary Rejoinder Affidavit has been filed today, <sup>In</sup> Para-4 of Supplementary Rejoinder, it has been stated that balance of gratuity of Rs.21,023/- was never paid to applicant. However, it is difficult to accept ~~the~~ such averments, in view of the averments made by respondents in O.A.1643/93 and the findings recorded by this Tribunal in the order.

R P



This Tribunal noted the pleadings of the respondents, which was to the following effect:

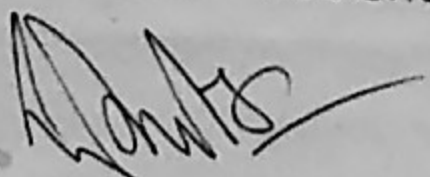
".....on account of this mistake, excess payment of Rs.4176/- had been made. This has been adjusted from the gratuity and the balance of Rs.21,023/- has been paid to the applicant on 08.03.1994, pension has also been fixed on the basis of re-fixed pay of Rs.1,680/-."

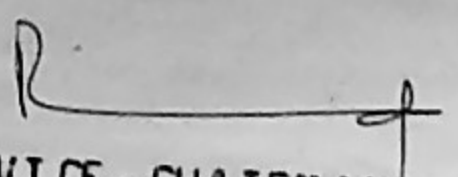
3. On the basis of the aforesaid facts stated in the Counter reply, this Tribunal recorded findings in para-9 to the following effect:-

"As per the details furnished by the respondents, the gratuity has been released on 08.03.1994, which was due on 01.09.91. No reasons for this delay have been furnished by the respondents in the Counter reply or during the hearing. Even granting that the excess payment on account of wrong grant of increment was due from the applicant, the balance amount of the gratuity after deducting the excess payment could have been paid when due. Delayed payment with no fault of the applicant as caused loss to him and the compensation for the same by way of interest is called for to meet the ends of justice."

4. From the aforesaid findings, it is clear that the gratuity was released on 08.03.1994. The applicant never questioned the aforesaid findings either before any superior court or by filing any Review Application in this Tribunal. In the circumstances, the contention raised on behalf of applicant that amount of gratuity <sup>has</sup> ~~was~~ not <sup>been</sup> paid, ~~same~~ cannot be accepted. Rest of the amount, which were due to the applicant have already been paid as admitted in para-8 of the Supplementary Rejoinder. In the circumstances, no contempt is made out, application is rejected, notices are discharged. No order as to costs.

Shukla/-

  
MEMBER (A)

  
VICE-CHAIRMAN