

Open Court

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH  
ALLAHABAD.

Original Application No. 807 of 2001.

Allahabad this the 3rd day of October, 2002.

Hon'ble Maj Gen KK Srivastava, A.M.

Puranmasi Prasad, son of Late Pateshwar r/o Mauja Jogi  
Chak P.O. Pipiganj, District Gorakhpur.

.....Applicant.

(By Advocate : Sri SS Upadhyay)

Versus.

1. Union of India through General Manager, North Eastern Railway, Gorakhpur.
2. Employers General Manager, North Eastern Railway, Gorakhpur.
3. Financial Advisor and Chief Accountant North Eastern Railway, Gorakhpur.

.....Respondents.

(By Advocate: Sri KP Singh).

O R D E R (oral)

(By Hon'ble Maj Gen KK Srivastava, AM)

In this O.A., filed under section 19 of the Administrative Tribunals Act 1985, the applicant has prayed that the respondents be directed to pay the balance amount of gratuity alongwith 18% penal interest.

2. The facts, in brief, giving rise to this O.A., are that the applicant was holding the post of Head Clerk in the respondent's establishment and retired on 31.3.1993. He took House Building loan of Rs. 33,000/- in 1989. The amount was to be paid in three instalments, which were paid in June 1985 (1st instalment), in March 1986(2nd instalment) and in August 1986 3rd and final instalment). The normal recovery of House Building Advance was being made. At the time of settlement of retiral benefits of the applicant the respondents recovered an amount of Rs. 20,000/-. As per the respondents as averred in para 13 of the C.A., the amount

was adjusted in the following manner:-

i) Principal Amount	:	Rs.3920.00
ii) Interest	:	Rs.10645.25
iii) Additional interest @ 2.5 P.A	<u>Rs.3548.41</u>	
		<u>Rs.18113.66</u>

The respondents have also averred that an amount of Rs.1886.34 was paid to the North Eastern Railways Employees Primary Co-operative Bank Limited, Gorakhpur (in short Cooperative Bank) and thus the recovery of Rs.20,000/- made by the respondents at the time of settling the applicant's retiral benefits is correct and legal. The respondents have recovered additional interest at the rate of 2.5% per annum amounting to Rs.3548.41 because the applicant failed to file the original mortgage bond. The learned counsel for the respondents submitted that the additional interest at the rate of 2.5% per annum has been levied in accordance with the Rules on subject.

3. The learned counsel for the applicant submitted that the contentions of the respondents are not correct. The applicant, at the time of drawing the House Building Advance had submitted all the required documents. In case he had not filed mortgage bond, how could the respondents release the applicant's second and final instalments. The learned counsel for the applicant also submitted that the mortgage bond was submitted and a copy of the same should be available in the office records. However, this has been denied by Sri KP Singh, learned counsel for the respondents and he submitted that the original copy of mortgage bond purported to have been submitted by the applicant, is not available in the office records.

4. Heard counsel for the parties, considered their submissions and perused records.

5. The limited controversy in this O.A., is regarding levy of additional interest at the rate of 2.5% per annum on house building advance <sup>amounting to Rs.3548.41</sup> ~~amounting to Rs.3548.41~~ and also the payment of Rs.1886.34 to Cooperative Bank. From perusal of the records, I find that the respondents have not given detailed explanation, as to why, an amount of Rs.1886.34

was paid to the Co-operative Bank and also the basis on which, they have averred in para 13 that the applicant has to further pay an amount of Rs.5061/- to the Co-operative Bank. No document has been filed in this regard by respondents. This needs to be sorted out by respondents with the Co-operative Bank within a period of two months and the applicant should be informed of the outcome. Besides it is also the duty of the applicant to settle his accounts with Co-operative Bank.

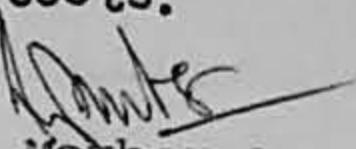
6. I have also perused Annexure 2 to the C.A., which is sanction memo dated 15.3.1985 for House Building Advance. Condition No. 1 of the said letter lays down that the 40% of payment would be made only after the receipt of the mortgage bond. The very fact that the 1st instalment was paid to the applicant in June 1985, <sup>✓</sup> there is no doubt in my mind that the applicant had submitted the mortgage bond. I would also like to observe here that the respondents even released the second and final instalments which could not be done in absence of mortgage bond. Therefore, recovery of additional interest at the time of superannuation of the applicant, is illegal and the applicant is entitled for its refund.

7. In the facts and circumstances and aforesaid observations, the O.A. is allowed. The O.A., is disposed of with the following directions.

- i) Respondents to take appropriate action as specified in para 5 above within 2 months from the date of communication of this order.
- ii) The respondents shall refund the amount of Rs.3548.41 with interest at the rate of 8% w.e.f July 2001 the month in which the O.A., has been filed to the date of payment within a period of one month from the date the clearance certificate is furnished by the applicant to respondents.

iii) The applicant shall settle his accounts with the N.E.R Primary Co-operative Bank Ltd., Gorakhpur within two months and furnish a clearance certificate from the said bank to the respondents.

8. There shall be no order as to costs.

  
Member-A

Manish/-