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Reserved

Central Administrative Tribunal, Allahabad.

Registration T.A.No. 2012 of 1987 (O.Suit No.1160
of 1982)

Risheshwar Nath Gupta ... Applicant

Vs. Vs.

Union of India ... Respondent.

Hon. D.K.Agrawal, JM
Hon. K.Obayya, AM

(By Hon. D.K.Agrawal, JM)

Civil Suit No. 1160 of 1982 instituted in the Court of Munsif Agra and then transferred to the Judge, Small Causes Court, Agra has been received on transfer under the provisions of S.29 of the Administrative Tribunals Act XIII of 1985 in this Tribunal in the year 1987 and registered at the number indicated above.

2. The Plaintiff (hereinafter referred to as the Applicant) retired from the post of law Assistant in the Northern Railway on attaining the age of superannuation on 11.3.1973. The post retirement dues were paid to him with delay and, therefore, he filed a suit in the year 1978 in the Court of Munsif Agra without payment of court fees. The Suit was registered in the year 1982 after payment of due court fees. At one stage, the Suit was transferred to Judge, Small Causes Court, Agra presumably on the ground that it was a money Suit. Thereafter, the Suit was transferred to the Tribunal, as mentioned above.

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The plaintiff has claimed :-

- (a) interest on a sum of Rs.9660 alleged to have been paid to the Applicant on 6.5.1975 representing the amount of Contributory Provident Fund ;
- (b) interest on a sum of Rs.9,632 paid to the Applicant on 2.10.1975 representing the amount of Provident Fund ;
- (c) short payment of Rs.498 in the amount due as special contribution to Provident Fund. The allegation is that a sum of Rs.6640 was due to him but payment of only Rs.6152 was made by the Department ; and
- (d) Rs.300 on account of expenses of notices and correspondence.

3. The Defendant- Union of India through General Manager Northern Railway, New Delhi (hereinafter referred to as the Respondent) did not file written statement either in the Munsif or in the Judge Small Causes Court nor any Counter Reply was given in the Tribunal despite sufficient opportunity. On the date of hearing on 29.11.1989 Sri A.K.Gaur, learned counsel appeared and expressed his desire to assist us. We have heard him although his power is not on record.

4. The payment of Rs.9660 representing the amount of Contributory Provident Fund was sent to the Applicant by means of a cheque on 5.5.1973. The Applicant did not accept it on the ground that the details of the payment were not accompanied. The contention of the Applicant is that it did not represent the final amount towards Provident Fund. Therefore, the cheque was returned by the Applicant after some correspondence to the Department, which was again tendered to him on 6.5.1975. The question is whether the Applicant is entitled to the interest on the said amount. The Applicant has failed to

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establish that anything was due to him in excess of the said amount towards Contributory Provident Fund. It is also clear that he has accepted the said amount as final payment towards the Contributory Provident Fund. In the circumstances, we hold that the Applicant wrongfully returned back the cheque tendered to him on 5.5.73, i.e., within 3 months of his retirement. As such, he was not entitled to interest on the said amount.

5. The amount of Provident Fund, i.e. Rs.9632 was tendered to the Applicant on 2.10.75 as alleged by him. There is no rebuttal of the allegation of the Applicant. Consequently, it is held that he was entitled to the interest at the rate of 12 per cent per annum from 1.7.73 to 30.9.75, i.e., for 27 months, which we quantify at the round figure of Rs.2600 (Two Thousand and Six Hundred).

6. The Applicant has alleged that Rs.6640 was due to him on account of special contribution to Provident Fund. The said allegation has also not been rebutted. Therefore, we hold that he is entitled to a sum of Rs.498.

7. As regards the amount of Rs.300 alleged to have been incurred by the Applicant on correspondence etc., the details of ^{w/ leave} ~~which~~ have not been disclosed nor proved. Therefore, we are of opinion, that the Applicant is not entitled to the same.

8. The Applicant has admitted in the Plaintiff that he was paid a sum of Rs.248 before the insti-
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Correct in Compliance
21st Order dt. 7-12-1989.

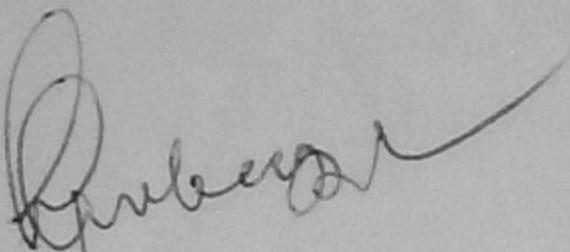
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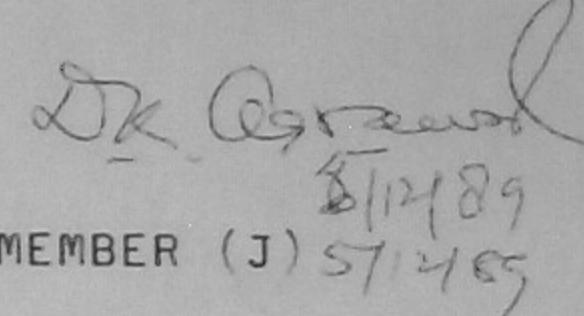
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tution of the Suit and a sum of Rs.4498 was paid
to him during the pendency of the Suit. Thus,
adjusting Rs.1437, the Applicant is held entitled
to receive a sum of Rs.1661 from the Respondent.

9. The Application is partly allowed.
We hereby direct the Respondent to pay a sum
of Rs.1661 to the Applicant within 3 months
hereof. The parties are left to bear their own
costs.


MEMBER (A)


MEMBER (J) 5/12/89

Dated: 5th Dec. 1989
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