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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No: 192 of 1992

S.N.Mukherjee Applicants.

V E R S U S

Union Of India & ors. Respondents.

Hon'ble Mr. A.K.Sinha, J.M.

The applicant Shri S.N.Mukherjee has filed this application under Section 19 of the Administrative Tribunal's Act 1985 praying that the respondents be directed to pay his gratuity and cash security of Rs. 2,000 which has been withheld illegally with interest @ 18 per cent per annum. Since he retired on 31.12.1990 and the payment has not been made to him.

2. Uncontroverted facts are as follows:

The applicant retired on 31.12.1990 as Divisional Cashier (Construction N.Railway Allahabad) and at the time of his making over charge, it is stated everything was found to be in order. On 13.8.1991 vide Annexure A-1, the applicant wrote to DRM N.Rly Allahabad requesting him for payment of gratuity and cash security and when nothing was done or heard in this regard, the applicant wrote to respondent No. 2 vide Annexure A-2 dated 9.10.1991 by way of representation with a copy thereof to the senior DAO N. Rly Allahabad. Fortunately for the applicant, respondent No. 2 took action and issued a DO letter dated 6.11.1991/19.11.1991 vide Annexure A-3 to the senior Divisional Accounts officer with a direction to apprise him the

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circumstances under which the payment of gratuity and cash security were not made to the applicant.

3. The applicant received a letter from the Accounts Officer (construction N.Rly Allahabad) vide Annexure A-4 dated 20.11.1991 wherein the Assistant Chief Cashier N.Rly Allahabad had requested to the authorities to release the DCR gratuity and cash security of the applicant as there was no outstanding dues against him. But inspite of all these, the gratuity and cash security of the applicant was not released and consequently, the applicant sent a reminder in this regard again to the respondent No. 2 with a prayer to expedite early payments vide Annexure A-5 dated 20.12.1991.

4. The contention of the learned counsel for the applicant was that the applicant has been unnecessarily harassed by the respondent, and there was no justification for withholding his DCR gratuity and cash security money and, therefore, it was sought to be urged ^{that} in the [^] circumstances the court be pleased to direct the respondents to make payment of the DCR gratuity and cash security money to the applicant with a panel interest of 18 per cent per annum besides costs.

5. The respondents have appeared and filed their Counter Affidavits. It was stated that the applicant had failed to account for Rs. 31,584/- in a suspected embezzlement alleged to be committed by Shri Ganpath Lal, Senior Cashier

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Northern Railway Allahabad detected in the year 1989. It is further stated that before the fact finding body, the applicant had admitted excess cash of Rs. 29,000/-, and further, one Shri R.N. Gupta another cashier had informed before the ^{fact} finding committee that he had deposited a sum of Rs. 2,584/- with the applicant who was then the Divisional Cashier N.Rly Allahabad, and thus, it was sought to be argued, that unless the applicant explained as to how the excess amount shown in the cash register for the relevant period, his gratuity and cash security could not be released.

6. Lastly, it was submitted by the learned counsel for the respondents that the Railway Administration wants to release the DCR gratuity of the applicant at the earliest, but he may be directed to explain the accounts before the committee of two competent officers of the cash and pay office to show as to how the excess amount has been accounted for/ deposited in the Government account so that his DCR gratuity may be released.

7. The question for consideration is whether in the facts and circumstances of the case, the respondents were justified in withholding the DCR gratuity and cash security of the applicant and whether the applicant was entitled to payment of his DCR gratuity amount and cash security with panel interest!

4 8. It is obviously clear from the facts disclosed that that the applicant, retired Honourably on 31.12.1990 and nothing was due against him which fact is borne out from Annexure A-4 dated 20.11.1991

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that the Assistant Chief Cashier N.Rly had been informed by the Senior Accounts Officer (construction) N.Railway Allahabad under whom the applicant had worked till his superannuation that there was no outstanding Bills and Amounts lying against the applicant and that the office has no objection to the release of DCR gratuity and cash security. It is further clear that no criminal is pending against the applicant in as much as neither any FIR nor any complaint against the applicant has been produced before him to show that any criminal case is pending. As a matter of fact, a suspected embezzlement committed by Shri Ganpath Lal, a senior cashier N.Rly was detected in the year 1989 and that matter is pending investigation before the fact finding committee where the applicant is said to have admitted excess cash of Rs. 29,000.

9. The applicant retired on 31.12.1990 and at that time there was no charge against him nor anything was found due against him. It is a well known proposition of law as laid down in M.Padmanabhan Nair's case reported in AIR 1985 Supreme Court, page 356 that "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 decision of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with a penalty of payment of interest at the current market rate till actual payment."

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10. It was further observed in that case that usual delay occurs by reasons of nonproduction of LPC and no liable certificate from the concerned department but both these documents pertain to matters, record whereof would be with the concerned Governments departments. Since date of retirement of every Government servant is very much known in advance we fail to appreciate why the process of collecting the requisite information and issuance of these documents should not be completed atleast a week before the date of retirement so that the payment of gratuity amount could be made to the Government servant on the date he retires or on the following day and pension at the expiry of the following month. It was further observed by their Lordships that the necessity for prompt payment of the retirement dues to a Government servant immediately after his retirement cannot be overemphasized and would not be unreasonable to direct that the liability to pay penal interest of these dues at the current market rate should commence at the expiry of two months from the date of retirement. In the instant case Annexure 4 would show that the Assistant Chief Cashier N. Railway was requested by the Accounts Officer (construction) N. Railway to release the DCR gratuity and cash security in favour of the applicant against whom there was no outstanding dues. No paper or any cogent evidence on record has been shown before me that any criminal case is pending against the applicant. Therefore, in the circumstances, it was not justified on the part of the Railway Administration to withhold the amount of gratuity and cash security

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11. In the result the prayer of the applicant is allowed and the respondents are directed to make payment of gratuity money and cash security money to the applicant with interest @ 12 per cent per annum within a period of three months from the receipt of this order.

12. It is further made it clear that the applicant is a responsible retired officer of the Railway and he is entitled to all post-retirement benefits which is allowed with interest, but at the same time it is also his moral duty as an Ex-employee of the Railway Administration to assist the Administration in finding out the adjustment of excess cash in his accounts which he had earlier himself admitted before the fact finding committee.

13. Before I part with this judgement, I must observe that the applicant though retired from service has some moral obligation to his department to assist in explaining the accounts relating to his period, of which he was in charge. He is, therefore, directed that before he receives the amount of his gratuity and cash security from the department, he should assist the Railway Administration in this regard to explain the amounts before the Railway Administration. With this direction this application is allowed.

14. But, in the circumstances, there will be no order as to cost.

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Allahabad Dated: 15.2.93

Ashok Kumar Dutta
Member (J)
15/2/93