

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 265 of 1995

Allahabad this the 2nd day of January 1996

Hon'ble Mr. T.L. Verma, Member (Jud.)

Sri Onkar Singh, S/o Suraj Singh, B/o 320 Dhauli
Pyau, Mathura,

APPLICANT

By Advocate Shri Sanjay Goswami.

Versus

1. Union of India through Senior Superintendent
of R.M.S. "G" Division, Gorakhpur.
2. Sri B.N.P. Tripathi, Senior Superintendent
of R.M.S. 'G' Division, Gorakhpur.

RESPONDENTS.

By Advocate Shri N.B. Singh

O R D E R

By Hon'ble Mr. T.L. Verma, Member (J)

This application has been filed for
issuing a direction to the respondents to make
payment to the applicant of his terminal benefits
including C.G.E.I.S., leave encashment and bonus
for the period 01.4.1993 to 31.3.1994.

2. The applicant retired from the post of
Mailman R.M.S. 'G' Division, Gorakhpur ^{on 31.3.94}. He submitted
his papers for payment of post retirement benefits

to the Director of Accounts (Postal), Lucknow. The appropriate authority sanctioned the release of the gratuity by order dated 22.4.94(Ann. A-1) and leave encashment by order dated 22.4.94(Ann.A-2). The Senior Superintendent, R.M.S., however, withheld the payment by issuing impugned order dated 24.10.94 on the ground that the stay order granted by the Central Administrative Tribunal, Allahabad was continuing and is in operation. It is stated that the O.A. 419, 420 and 421 of 1989 were filed by the respondent no.1 against the award ~~granted~~^{passed} by the Payment of Wages Authority and that the payment of award ^{money} in the aforesaid cases, had been stayed. The stay orders passed in the aforesaid O.A.'s has, however, nothing to do with the payment of terminal benefits admissible to the applicant. Withholding of payment on the ground of stay, it is stated, is wholly illegal and malafide. Hence, this application for the relief mentioned above.

3. The respondents contested the claim of the applicant. In the written statement filed on behalf of the respondents, it is admitted that the applicant is entitled to all the benefits but due to the order passed by the Tribunal, the aforesaid amount has not been made.

4. We have heard, the learned counsels for the parties and have perused the record.

5. The competent authority had released a sum of Rs.18,315/- being the amount of D.C.R.G. in favour of the applicant by order dated 22.4.94 (Annexure A-1) ^{and} leave encashment of 189 days by order dated 22.4.94 (Annexure A-2). After the aforesaid amounts were released by the competent authority, withholding of the same on the ground that the stay order was operating in certain cases was, in my opinion, not at all justified. Particularly, because the aforesaid O.A.'s in which stay order had been passed, had been filed against award ~~made~~ ^{passed} ~~one~~ by the payment of wages authority. The amount allowed by the payment of wages authority against which O.A. 419, 420 and 421 of 1989 had been filed, pertained to payment of arrears of salary. The stay which was in operation in the aforesaid cases had no relevance so far the release of terminal benefits admissible to the applicant, is concerned.

6. In the aforesaid context, it may be relevant to mention that the services of the applicant were terminated by order dated 30.11.1962. The termination of his service was challenged by filing original suit 451 of 1978 in the Court of Munsif, Mathura. The aforesaid suit was decreed and the termination of services of the applicant was held to be ^{illegal and} void by Judgment and decree dated 15.12.1980. The aforesaid decree became final on 05.12.1986 when appeal filed by the Union of India against the Judgment and decree passed by the Munsif, was dismissed. The applicant, it is stated, was not permitted to join ~~work~~ even after the aforesaid Judgment and decrees

having become final. The applicant was, therefore, forced to file O.A. 916 of 1987 before this Tribunal. The said O.A. was allowed by a Bench of this Tribunal by order dated 15.2.1991 with cost and the respondents were directed to reinstate the applicant, within 2 months and make payment of salary w.e.f. 28.9.1986. It is stated that respondent no.2 felt aggrieved by the aforesaid orders passed by the Munsif and this Tribunal and he ^{out of malice,} with a view to stalling the payment of terminal benefits to the applicant, sought uncalled for legal opinion, and

7. The circumstances in which the payment of the terminal benefits sanctioned by the competent authority has been withheld, leaves no room for doubt that the same was not bonafide. It is settled principle of law that the death cum retirement gratuity cannot be withheld. The applicant, therefore, is not only entitled to a direction for release of the D.C.R.G. and other terminal benefits but, also to payment of interest on the delayed payment.

8. In the result, this application is allowed. The respondents are directed to make payment of D.C.R.G. to the applicant with interest thereon at the rate of 12% per annum from the date it became due till the date of payment and other terminal benefits, within 3 months from the

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date of communication of this order. The applicant is also entitled to payment of costs which is quantified at Rs.500/-.

T.L. Verma
(T.L. Verma)
Member (J)

/M.M./