

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 6th day of June 2002.

QUORUM : HON. MR. S. DAYAL, A.M.

R.A.No.45/99 O.A. No. 1643 of 1993

Union of India & others.....

..... Applicants.

Versus

K.D. Mishra.....

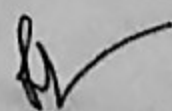
..... Respondent.

O R D E R (ORAL)

BY MR. S. DAYAL, A.M.

This review petition has been filed for review of order dated 3.1.96 and passing a suitable order after review.

2. In O.A. No.1643/93, a single bench had directed the respondents to allow the option of fixation of pay on 1.1.84 and calculate pension and settlement of dues on that basis. A direction was also given for refunding over payment from gratuity and payment of interest at the rate of 18% per annum was ordered.
3. The review petition filed is on the ground that Central Administrative Tribunal Madras Bench has held recovery of over payment from D.C.R.G. of a retiree is justified. Circular issued by Railway Board No.E(G)95 LL 3-11 dated 3.8.95 has been issued based on the said judgment which is annexed to the review petition. It appears from the judgment dated 3.1.96 that this authority or Board circular was not placed before the court at the time of hearing.
4. Counsel for applicant in review, who was respondent in the O.A., has placed before me the case of AMAR NATH DHUPAL VS. UOI (1996) 33 ATC 809 in which with-holding of D.C.R.G. has been held legally. Counsel for applicant respondent has also placed the judgment of Apex Court in UOI & others Vs. G. Gana-Yutham J.T. 1997 (7) SC 572 in which it has been held that the gratuity can be with-held under Rule 9.
5. Counsel for applicant respondent has also placed the judgment of Apex Court in R. Veer Bhadram Vs. Govt. of A.P. 2000 SCC (L&S) 166 in which it has also been held that gratuity can




be with-held in ce-rtain circumstances.

6. Counsel for the respondent applicant has stated that this review is badly time barred. I have considered this plea of the respondent applicant. I find that the review has been filed on 22.5.96 while the judgment is dated 3.1.96. The applicant in this review petition has moved delay condonation application No.5833/96 seeking condonation of delay in filing review petition. It has been mentioned that the file was put up to the competent authority and considerable time was taken in analysing the issues involving in the judgment. Since the applicant in review petition is a government department, the prayer for condonation of dely is accepted and the review is being considered on merits.

7. The respondents, it appears in making the review petition have lost sight of the purpose for which review petition can be made. Counsel for applicant in review has contended~~that~~ subsequent judgment of the Apex court should be taken into consideration in deciding a review petition. I find no basis for the assertion made by the counsel for applicant in review petition. A review can be made by a Bench which had passed the order only for errors apparent on the face of record of for discovery for evidence which were not available earlier. The subsequent judgments do not fall in the category and, therefore, the review on the ground that certain matter was not placed before the bench which passed the order or that subsequent judgments of a superior court in different cases have held the view taken by the bench to be not supported by the law laid down subsequently.

8. The review petition is, therefore, dismissed as lacking in merits. No order as to costs.


A.M.

Asthana/
6.6.02