

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH ALLAHABAD.

Original Application No. 1086 of 1999.

Allahabad this the 30 day of June 2003.

Hon'ble Mrs. Meera Chhibber, Member-J.

Smt. Gyanti Devi

@Shanti Devi,  
W/o Late Sri Jang Bahadur Singh,  
R/o Village & Post- Basia Khor,  
District Gorakhpur.

.....Applicant.

(By Advocate : B Tewari)

Versus.

1. Union of India  
through General Manager  
N. E. Railway,  
Gorakhpur.
2. Chief Works Manager  
Work Shop, N. E. Railway  
Gorakhpur.
3. Senior Accounts Officer,  
Work shop, N. E. Railway,  
Gorakhpur.

.....Respondents.

(By Advocate : D. C. Saxena)

O R D E R

By this O. A., applicant has sought the following  
reliefs (S).

"(i) to issue an order or direction in the nature  
of mandamus commanding and directing the respondents  
pay interest at the rate of 18% on compound basis  
payable on difference of arrears of salary, P.F.,  
Leave Encashment and other pensionary benefits  
amounting Rs.4,11,859/-

(ii) to issue an order or direction commanding






the respondents to pay difference of P.L.B, LAP for eight months and travelling allowance which are not being paid to the husband of the applicant even after retirement from service on 31.12.1989.

(iii) to issue any other order or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case."

2. It is submitted by applicant that her husband was appointed as a Clerk on 28.01.1949. His services were terminated under Rule 148 (3) w.e.f. 21.04.1956 but since Rule 148 (3) was struck down by Hon'ble Supreme Court in A.I.R 1964 S.C. Page 600 and 1969 (2) S.C.C 569, therefore, General Manager revoked the order dated 21.04.1956 vide order dated 21.01.1971 after her husband's appeal was allowed by the President of India. He was posted at Sahasa as Junior Clerk on pay of Rs.110 in the pay scale of Rs.110-180 vide letter dated 21.01.1971 and period from 21.04.1956 to 26.01.1971 was treated as spent on duty. Accordingly arrears of wages were also paid but he was not promoted w.e.f 8.11.1958 when his junior was promoted. He filed suit No.1196/81 in the Court of Munsif which was allowed on 30.11.1983 directing the respondents to give benefit of promotion, seniority and arrears of salary within 30 days. Being aggrieved department filed appeal before District Judge but the same was dismissed on 27.11.1984. They filed 2nd appeal before High Court which too was dismissed on 29.02.1996. Her husband in the meantime retired on superannuation on 31.12.1989 but he was not paid pension and other benefits so he filed application before pension Adalat in 1991. <sup>but</sup> ~~About~~ in vein so filed O.A No.120/92 which was allowed on 03.11.1992 directing the respondents to pay all pension and other benefits to him within 3 months (Annexure A-II). Still payments were not paid so he approached Pension Adalat once again where an order was passed that order dated 03.11.1992 he implemented within 15 days duly circulated vide G.M (P) order





dated 04.01.1994 (Annexure III).

3. It was only after this that pensionary benefits w.e.f. 21.01.1971 to 21.02.1989 for 7 years 11 months and 29 days for Junior Clerk were paid in the scale of Rs.950-1500 on pay of Rs.1475/- in the year 1994 and his pension was fixed at Rs.403/-. They also paid Rs.14013/- on account of D.C.R.G., 17600/- as commuted value of pension and 30095/- as P.F. Subsequently applicant's husband was promoted as Senior Clerk w.e.f. 18.11.1958 as Head Clerk w.e.f. 01.10.1980 and Office Supdt w.e.f. 28.05.1982 (Annexure A-V). Therefore, vide order dated 23.05.1997 applicant's husband was given further amount of Rs.27650/-, Rs.34664, Rs.109142 Rs.157801 and Rs.20086 + Rs.730/- on account of D.C.R.G. commuted pension, difference of arrears of pay from 18.11.1958 to 31.12.1989 difference of arrears of pension from 01.01.1990 to April 1998, leave encashment value of L.A.P and difference of arrears of P.L.B.


4. It is the claim of applicant now, that she is entitled for interest on the amount of pension amounting to Rs.31663/- D.C.R.G Rs.52342, commuted value of Rs.266943, arrears of pay 2816 and on Rs.703 as well as Rs.30095 as P.F as this total amount Rs.4,11,859 ought to have been paid to her husband after retirement on 31.12.1989 or after 18.11.1958 when her husband was due for 1st promotion. Being aggrieved applicant's husband had represented to the General Manager on 27.06.1998 (Annexure A-VI) but since no reply was given, applicant had no option but to file this case for seeking compound interest for delayed payments.





5. Respondents have opposed this O.A. and have submitted that applicant's husband had been issued a cheque of Rs.7222.80 on 21.03.1999 as interest on Rs.30,095 (D.C.R.G.) @ 12% covering the period from March 1990 to Feb.1992 but the same <sup>was</sup> returned as undelivered because employee had expired, therefore, Department cannot be blamed at all. They have also submitted that applicant did not approach the department before approaching Tribunal. There are certain formalities which are to be complied with before releasing the amount to legal heirs but the legal heirs have still not completed those formalities. The respondents have even issued letter dated 14.06.2000 to the applicant for payment of above amount (Annexure CA 1). There is no provision to make payment <sup>of interest & commuted &</sup> on counted pension, Leave Encashment or L.A.P etc. They have thus submitted that this O.A. is liable to be dismissed.


6. Applicant has not filed any rejoinder we have heard both the counsel and perused the pleadings. Annexure CA-1 shows that applicant was asked to fill up the form so that cheque which has come back as undelivered due to the death of her husband may be cleared vide letter dated 14.06.2000. This fact has not been disputed by the applicant at all so if inspite of this letter, if applicant had not completed the requisite formality, she cannot blame the respondents. The cheque for Rs.7222.80 was prepared as interest on the amount of Rs.30095/- (D.C.R.G) as applicant's husband was entitled to get this interest in accordance with rules.





7. Applicant's counsel has not been able to show any rule under which applicant would be entitled to receive interest under different <sup>heads</sup> ~~heads~~ for late payment of Leave ~~Encashment~~ <sup>commuted</sup> or ~~commuted~~ value of pension etc. On the contrary perusal of judgment dated 29.02.1996 passed in 2nd appeal No.431/85 at (Pg 12) shows that applicant's husband had made a specific request in the Hon'ble High Court to pay him interest on the payments withheld by department but the prayer was not accepted. Once the prayer had been rejected by the Hon'ble High Court, applicant cannot be allowed to raise the same issue now in there proceedings. However, we find that respondents had themselves written to the applicant to receive the amount of Rs.7222.80 as interest on the delayed payment of D.C.R.G. If that has still not been claimed, the applicant is given liberty to contact the respondent's office as mentioned in letter dated 14.06.2000 and fill up the forms as required in law within 4 weeks from the date of receipt of a copy of this order so that respondents may arrange to make the said payment within a reasonable period but not later than 4 months in any case, after they receive the proper forms from applicant as is required under the law.

8. With above directions the O.A. is disposed off with no order as to costs.

  
Member-J.

Manish/-