

OPEN COURT.

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH; ALLAHABAD.**

ORIGINAL APPLICATION NO. 1376 of 2003.

ALLAHABAD THIS THE 20TH DAY OF APRIL 2005.

Hon'ble Mr. D.R. Tiwari, Member-A

Hans Raj Yadav
Aged about 63 years
S/o Shri late Ram Khelawan Yadav
R/o C-33/65 I, Acharya Narendra Dev Nagar, Chanua
Chhittupur, Varanasi.

.....Applicant.

(By Advocate: Sri Rakesh Verma)

Versus.

1. Union of India through
The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Railway Manager, (P)
Northern Railway,
Lucknow Division,
Lucknow.

.....Respondents.

(By Advocate: Sri A.K. Roy)

O R D E R

By this O.A., filed under section 19 of the A.T. Act 1985, the applicant has prayed for issuance of direction to the respondent No.2 for payment of interest at the rate of 18% per annum on the amount of D.C.R.G. amounting to Rs.1,75,108/- for the period during which the payment has illegally be delayed i.e. from 1/12/2000 to May 2002.

D.R. Tiwari

2. Briefly stated, the applicant was working as Chief Booking Supervisor, Northern Railway, Lucknow Division, Varanasi under the overall control of the respondent NO.2 and retired from service on attaining the age of superannuation on 30.11.2000. The respondent NO.2 vide letter dated 01/12/2000 paid the amount of provident fund, commutation of pension, group insurance, leave encashment vide cheque NO.F-749195 dated 30.11.2000 (Annexure A-1). The grievance of the applicant is that vide Note 2 of the Annexure A-1, he was informed that his D.C.R.G. has been withheld on account of non-vacation of Govt. quarter.

3. The applicant has submitted that he was never allotted any Government quarter and as such the action of the respondent NO.2 in withholding his D.C.R.G for the period from 1.12.2000 to May 2002 was illegal arbitrary and unjustified. He made a representation to the Competent Authority for redressal of his grievance but nothing was done in this regard. Finally after the lapse of about 18 months the respondents released and paid his D.C.R.G. amount in May 2002. He has submitted that he was entitled for receipt of the gratuity on 1.12.2000 which could not be given to him and for this purpose he was in no way responsible and the respondents may be directed to pay the interest on the delayed payment of the gratuity. He has argued that as per the normal procedure the necessary formalities for payment of retiral benefits are started six months before the due date of retirement. In this case, respondents have failed to take necessary action which resulted in delayed payment of gratuity to the applicant as such the O.A. may be allowed and respondents be directed to pay the interest.

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4. The respondents, on the other hand, have resisted the O.A. and filed a detailed counter affidavit wherein it has been submitted that non-receipt of clearance from commercial department for certain dues found to be pending against the applicant has delayed the payment. Applicant was duly informed regarding certain dues vide Senior D.C.M letter No.-30-2C-Set-2001/VK dated 9.7.2001 stating therein the details regarding dues against him (para 9 of the C.A. refers). Since the dues pertain to Railway revenue in the shape of public exchequer, as such, there was no option for the respondents of Personnel Department but to withhold the gratuity till clearance from the Commercial Department under whom applicant was working. The applicant explained/clarified the position about commercial debits pending against him vide letter dated 29.08.2001. On receipt of the clarification from the applicant, the appropriate order for release of the gratuity was passed on 9.4.2002 and the pay order No.721322 dated 01.05.2002 was prepared through the Cheque drawn on State Bank of India, Varanasi vide D.R.M./LKO. Letter dated 01.05.2002 and the same was credited in the account of the applicant. They have further submitted that heading note NO.2 in the letter dated 1.12.2000 regarding vacation of the Railway Quarter was left to be scored out and it was only due to inadvertent typographical mistake. They have submitted that after receipt of the clarification from the applicant, gratuity amount was released in his favour and the O.A. lacks merit and may be dismissed.

5. During the course of the arguments, the counsel for the applicant reiterated the facts and legal pleas mentioned in the pleading of the applicant whereas the counsel for the respondents also reiterated the facts and legal pleas

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mentioned in the counter affidavit of the respondents. No new point came up during the course of arguments.

6. I have heard very carefully the rival submissions of the counsel for the parties and perused the pleadings.

7. From what has been discussed above, it is abundantly clear that the respondents did not take timely action with regard to the payment of D.C.R.G. to the applicant. Action to process the retiral benefits to the retiring employees is always taken in advance and in this case I find that even after the retirement the respondents were not prompt in finalizing his Gratuity. The stand of the respondents that it was delayed in the absence of clearance from the Commercial Department. It is not for the employee to get the clearance from Commercial Department. The D.R.M is in overall incharge for this matter and the necessary clearance could have been obtained before the retirement of the applicant or immediately after his retirement. The respondents have themselves stated that they wrote to the applicant vide letter dated 9.7.2001 seeking certain clarification from the applicant about some dues allegedly to be pending against the applicant. When the applicant wrote back to them explaining the position that nothing was pending against him. From this, it is clear that the respondent's inaction delayed the payment to the applicant. Rule 87 of Railway Services (Pension) Rules 1993 provides for interest on delayed payment of gratuity. Relevant portion of the Rule is reproduced hereinunder:-

"(i) If the payment of gratuity has been authorized after three months from the date when its payment became due on

Defence

superannuation and it is clearly established that the delay in payment was attributable to administrative lapse, interest at such rate as may be specified from time to time by the Central Government in this behalf on the amount of gratuity in respect of the period beyond three months shall be paid.

Provided that the delay in the payment was not caused on account of failure on the part of the railway servant to comply with the procedure laid down in this Chapter.....".

"(5) Gratuity becomes due immediately on retirement and in case of a Railway servant dying in service, action for finalizing his pension and death-cum-retirement gratuity shall be taken in accordance with the provision of Chapter IX".

If one has regard to the provisions mentioned above, one is bound to reach an inescapable conclusion that the applicant, in fact situation of the case, is entitled for interest for delayed payment of gratuity. He will be entitled for the interest for the period immediately three months after his retirement to the date of actual payment at the rate of 8% per annum.

8. In the light of the reasons stated above, the O.A. is allowed and the applicant shall be entitled for payment of interest at the rate of 8% per annum for the period immediately after three months of his superannuation to the date of payment. This exercise shall be completed within a period of three months from the date of receipt of copy of this order.

No costs.


Member-A

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