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Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 23rd day of August 2007

Original Application No. 185 of 2007

Hon'ble Mr. P.K. Chatterji, Member (A)

Jaipal Singh, S/o Sri Chet Ram, R/o Mohalla Than
Singh Pilibhit UP.

... .Applicant

By Adv: Sri R.C. Pathak

V E R S U S

1. Union of India through the Secretary, Ministry of Communication, Department of Post, Sanchar Bhawan, New Delhi.
2. The Post Master General (PMG), Bareilly Zone, Department of Post, Civil Lines, Bareilly Cantt.
3. The Senior Supdt. Of Post Offices, Office of the Senior Supdt. Of Post Offices, Bareilly Division, Bareilly.
4. The Post Master Head Post Office, Pilibhit (UP).

... .Respondents

By Adv: Sri S. Singh

O R D E R

The facts of the case briefly is that one Sri Nand Kishore, a postal employee and a member of the UP Postal Primary Cooperative Bank Limited, Bareilly took loan from the bank and the applicant and another employee of the Postal Department stood sureties to him by executing a bond. Before Nand Kishore could repay the said loan he died. The applicant retired on 31.05.2005. At the time of settling the retiral dues, particularly the DCRG the

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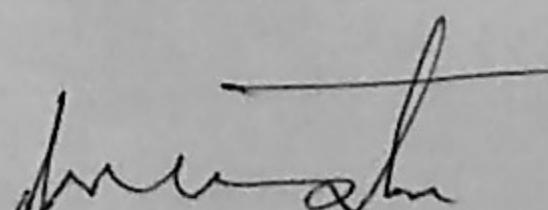
respondents ordered recovery of Rs. 40500/- which was due from late Sri Nand Kishore and his legal heirs, from the gratuity payable to the applicant. Thereafter, the applicant filed OA No. 787 of 2005 praying that the orders dated 31.05.2005 of the Senior Superintendent of Post Offices (SSPO) Bareilly directing recovery of that amount from the applicant's gratuity be set aside. It was also prayed as relief that respondents No. 3 and 4 in the said OA i.e. SSPOs Bareilly and Post Master, Philibhit be directed to make payment of the DCRG with 18% penal interest.

2. The said OA was considered by this Tribunal and was decided on 16.11.2006 with the following directions:

"In the result the order dated 31.05.2005 (Annexure A-1) passed by SSPO Bareilly is quashed with a direction to him to ensure payment of DCRG to the applicant, which may be admissible under the Rules, without making any deduction of the amount of Rs. 40,500/- This shall be done within a period of two months from the day of service of copy of this order on him. No cost."

3. The present OA has been filed by the same applicant asking for the following reliefs:

- "i. issue suitable order or direction by way of Certiorari, quashing the orders dated 12.1.2007 and 1.1.2007 shown as Annexure No. A-1 and A-2 to this original application.
- ii. issue suitable order or direction by way of mandamus directing the respondent No. 3 and 4 to make payment of interest to the applicant with 18% penal interest on delay of DCRG Rs. 1,43,788/- paid on 12.1.2007.
- iii. issue any other suitable order or direction which this Hon'ble Tribunal may deem fit and proper upon the circumstances of the case of the applicant.

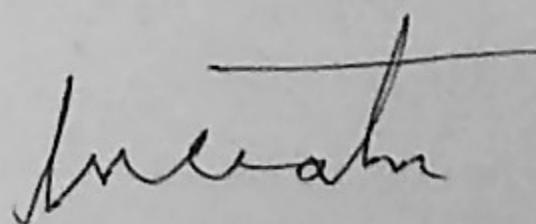


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iv. towards the cost of the application to the applicant."

4. Respondent No. 3 i.e. SSPO, Bareilly sent a letter on 10.01.2007 to the respondent No. 4 for compliance of the Tribunal's order dated 16.11.2006 for making payment of DCRG to the applicants without deducting the loan amounting to Rs. 40500/- . It was also directed by the SSPO that the said amount be paid by 15.01.2007. It is alleged by the applicant that this order was illegal and unlawful and against the direction of the Tribunal and was in violation of Govt. policies in the mater of payment of interest for delayed payment of gratuity. The applicant had prayed for payment of 18% penal interest in the OA before the Tribunal and so the order of the SSPOs dated 10.01.2007 was illegal. However, on the basis of the SSPOs direction respondent No. 4 issued orders dated 12.01.2007 in respect of payment of DCRG of Rs. 143788/- to the applicant without interest of the delayed payment of the DCRG. The order was stated to have been passed in compliance with the direction of the Tribunal dated 16.11.2006. The applicant alleges that this order is illegal and not consonance with the direction of the Tribunal and he has prayed for quashing of this order.

5. The learned counsel for the applicant stated that as per Govt. orders he was entitled to get



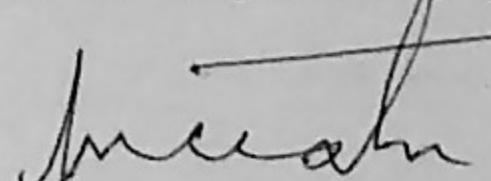
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interest for delayed payment of DCRG. He had also prayed for the same in its previous OA No. 787/05 . The Tribunal admitted his claim and allowed the OA which employed that interest @ 18% has also to be paid. For this reason the decision of the respondents for not paying any interest is illegal and liable to be set aside.

6. The respondents have countered the claim of the applicant saying that they have complied with the direction of the Tribunal in full. They have also refuted the claim of the applicant for payment of interest with the following submission:

"That accordingly, provisional DCRG amount of Rs. 1,43,788/- was sanctioned in favour of the applicant vide order dated 31.05.2005 with direction to the Post Master, Pilibhit Head Post Office that a sum of Rs. 40500/- out of Rs. 1,43,788/- should be deducted and credited under the head UCR but the applicant himself refused to take the payment of his gratuity vide his application dated 30.06.2005, which has been forwarded to the respondent No. 4 vide letter dated 07.07.2005. Thus payment of DCRG of applicant has not been delayed by the Postal Department, but applicant has himself delayed (refused) in taking payment. Therefore, no interest is payable to the applicant due to his deliberate denial."

By making this submission the respondents stated that the claim of the applicant for interest is not at all justified. The delay in payment was the fault of the applicant himself for which no interest is due to be paid. Regarding Rs. 40500/- the respondents have stated that as soon as the Tribunal's order in OA 787/05 was received it was paid. There was no direction of the Tribunal regarding payment



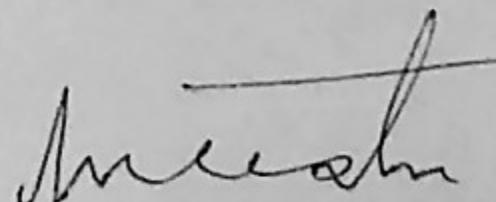
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of interest. Therefore the allegation their orders were illegal is totally unacceptable.

7. I have applied my mind to the pleadings and arguments. Regarding payment of interest there is force in the argument of the respondents that as far as Rs. 143788/- i.e. the amount of DCRG was concerned, they attempted to pay it after deducting Rs. 40500/-. But the applicant refused to take it so they were not at fault. So at this stage payment of interest for the entire DCRG does not arise.

8. As to the amount proposed to be deducted i.e. Rs. 40500/- they paid it after the Tribunal's order. There was no question of payment of interest in absence of specific direction in the Tribunal's order, the respondents claim. The relief prayed for by the applicant in OA 787/05 contained payment of 18% interest. Presumably this prayer was also considered by the Tribunal which however, did not pass any order on the question of paying interest. Therefore, what was the fault of the respondents? The learned counsel for the respondents asked. I have gone through the relief sought by the applicant in the aforementioned OA 787/05. Para 2 of the relief clause is as follows:

"issue suitable order or direction by way of mandamus directing the respondents No. 3 and 4 to make payment of DCRG to the applicant with 18% penal interest."



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9. I am of the view that principle of res-judicata should debar the applicant from asking for the same relief which was prayed for in OA 787/05 and on which the Tribunal issued final orders after his consideration. Therefore, the question of granting penal interest of 18% cannot be taken up afresh. For this reason the OA deserved to be disallowed and hence is dismissed. No cost.

Member (A)

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