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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH  
~~NON-JURIDICAL~~

O.A. No. 60 OF 1986  
~~TXXXXXX~~

DATE OF DECISION 7.7.1989

SHRI ABHESING JIVANSING RATHOD Petitioner

PARTY - IN - PERSON

~~Advocate for the Petitioner(s) x~~

Versus

UNION OF INDIA & ORS. Respondent

MR. B.R. KYADA

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.H. TRIVEDI, VICE CHAIRMAN.

The Hon'ble Mr. P.M. JOSHI, JUDICIAL MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

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Shri Abhesing Jivansing Rathod,  
97/A, Kothi Compound,  
Rajkot - 360 001.

.. Applicant

(Party-in-person)

Versus

1. Union of India, through,  
General Manager, W.Rly.,  
Churchgate, Bombay.
2. Divisional Railway Manager,  
W.Rly., Kothi Compound,  
Rajkot.
3. Divisional Personnel Officer,  
W.Rly., Kothi Compound,  
Rajkot.

.. Respondents

(Advocate - Mr. B.R. Kyada)

CORAM : Hon'ble Mr. P.H. Trivedi .. Vice Chairman

Hon'ble Mr. P.M. Joshi .. Judicial Member

O R A L - O R D E R

07.07.1989

Per : Hon'ble Mr. P.M. Joshi .. Judicial Member

In this application, the petitioner Shri Abhesing Jivansing Rathod (a retired employee), who was working as Chief Clerk, Transportation Branch in DRM Office at Rajkot, has claimed a sum of Rs. 436.12, being the amount of interest and a sum of Rs. 96/- not refunded to him. He has claimed the relief in the following terms as found at para 7 of his application. -

Rs. 96-00 Deposit amount not refunded from 1.6.83 to this date as per para (G) above.

Rs. 48-96 Interest at 18% on deposit amount not refunded from June, 1983 to March, 1986.

Rs. 289-08 Interest at 18% p.a. on arrears of Rs. 1605-81p. settlement dues paid one year late from June, '83 to May, '84 as per para (f) above.

Rs. 2-08 Interest at 5% on DCRG dues detailed for more than 3 months as per para (C) above.

Rs. 436-12 (Rs. four hundred thirty six & twelve ps. only)

2. The respondents in their counter while disputing the claim, conceded that a sum of Rs. 100/- was deducted on 2.9.1983, from the amount of DCRG as he had not vacated the quarter even after retirement which according to the petitioner, has been now regularised as his son who is a railway employee <sup>or shared</sup> had occupied the same. According to the respondents

the pension was initially fixed on the basis of the last pay drawn by him at Rs. 650/- per month but subsequently his pay has been refixed at Rs. 690/- per month from 10.6.1982 to 31.3.1983 and at Rs. 700/- from 1.4.1983 onwards by office memorandum dated 17.6.1983 and accordingly the pension payment orders were also revised.

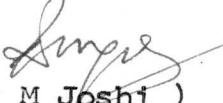
3. When the matter came up for hearing, we have heard the petitioner, party-in-person and Mr. B.R. Kyada, the learned counsel for the respondents. It is pertinent to note that the petitioner has served the respondent with a notice dated 16.9.1985, claiming interest on the amount wrongly withheld by the respondents. With regard to the claim of interest, the petitioner has relied on the Railway Board's letter dated 3.9.1979. Now on the plain reading of the said letter, it <sup>clearly</sup> has been provided that interest should be paid if the payment of death-cum-retirement gratuity is delayed and such interest has been fixed at 5% per annum. It is borne out from the record that after retirement of the petitioner i.e. on 30.5.1983, first payment in respect of DCRG was <sup>made</sup> paid on 2.9.1983. As a matter of fact, <sup>only</sup> a sum of Rs. 15,229.50 was paid. The revision of pay took place just after 17 days after the retirement of the petitioner and therefore, the petitioner was entitled to <sup>an early settlement of the</sup> the retirement benefits including DCRG, now on the basis of the revised pension a sum of Rs. 16,488.70 has been assessed as DCRG admissible to the petitioner and a sum of Rs. 1,229/- being the difference has been paid in May, 1984. <sup>Obviously there is a considerable delay in payment of DCRG</sup> On the basis of the Railway Board decision the petitioner is entitled to interest at the ~~state~~

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of 5% p.a. on the amount of Rs. 1,229/- from 2.9.1983 to May, 1984. A sum of Rs. 100/- was deducted from DCRG amount payable to the petitioner, <sup>But</sup> nothing has been brought on record by the respondent <sup>to show as to</sup> whether such an amount can be deducted from the retirement benefit <sup>under rules.</sup> of an employee. There was therefore, no justification in deducting a sum of Rs. 100/-. The petitioner is therefore entitled to refund of Rs. 96/- claimed by him. As the petitioner has not claimed the interest as required under provision of section 3 of "the 1978 (Act No. 14 of 1978), Interest Act, he cannot claim interest on the rest <sup>claim of</sup> of the amount. Accordingly, we reject the <sup>claim of</sup> interest <sup>count - other items</sup> on the rest of <sup>claim of</sup> amount. The respondents are directed <sup>of Rs. 1229/- after due date</sup> to work out the <sup>claim of</sup> interest on the amount paid <sup>along with</sup> a sum of Rs. 96/- deducted by them within a period of one month from the date of this order, failing which the respondents shall pay further amount of interest on the total amount payable to the petitioner, at the rate of 9% p.a.

With the aforesaid direction, the application stands disposed of. No order as to costs.

  
( P H Trivedi )  
Vice Chairman

  
( P M Joshi )  
Judicial Member

\*Mogera