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**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

**C.A. NO.24 OF 1991 IN
O.A.NO./482/98
T.A.NO.**

DATE OF DECISION : 20/09/99

Mr. Anil Kumar D. Sharma : Petitioner [s]

Mr. K.K. Shah : Advocate for the petitioner [s]

Versus

Union of India & Ors. Respondent (s)

Mr. N.S. Shevde Advocate for the Respondent (s)

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THE HON'BLE MR. V.RAMAKRISHNAN : VICE CHAIRMAN

THE HON'BLE MR. P.C. KANNAN : MEMBER [J]

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

NO

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Anil Kumar D. Sharma
Working as Driver,
ADI AC under
Respondent no.2,
Residing at Block no.663/6
Rajpur Hirpur Colony,
Maninagar, Ahmedabad.

--- Applicant ---

(Advocate : Mr. K.K. Shah)

Versus

1. General Manager,
W.Rly., Churchgate,
Mumbai : 400 020.
2. Divisional Railway Manager,
Divisional Office,
W.Rly., Pratapnagar,
Baroda.
3. Chief Operating Supdt.,
W.Rly., Churchgate,
Mumbai.

--- Respondents ---

(Advocate : Mr. N.S. Shevde)

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**JUDGEMENT
C.A/24 OF 199-1
IN
O.A/482 OF 1988**

Date : 20/09/99

Per Hon'ble Shri. P.C. Kannan : Member (J).

Heard Shri. K.K. Shah, counsel for the applicant and Mr. Shevde, counsel for the respondents.

2. The applicant challenged the penalty order of dismissal in the main O.A. This Tribunal after hearing both sides, by judgement dated 04.04.1990 quashed the order of dismissal and the respondents were directed to reinstate the applicant and be paid the back wages within a period of four months from 04.04.1990. A Review Application filed by the respondents was rejected on 25.01.1991. An SLP filed by the respondents by the Supreme Court was rejected in Sept'91. The applicant was thereafter reinstated by order dated 01.10.1991 and order was issued for fixing his grade and pay from 01.01.91 to 01.12.90. In Feb'92, payment of back wages was arranged. However, the applicant is still aggrieved to the following :

- (i) That due credits as per rules have not been reflected in his Provident Fund Account ;
- (ii) That the applicant was not paid the running allowance as per the rules ; and
- (iii) That the applicant was not paid interest on the delayed payment of back wages.

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3. It appears that the applicants filed Spl. Civil Application No. 509 to 544 of 1981 in the High Court of Gujarat challenging the constitutional validity of their dismissal order. As per the interim order of the High Court there ~~may~~ were ^{paid} certain salary equivalent to subsistence allowance from 01.01.82 to 09.10.85 out of his provident fund and this amount is refundable to the P.F. A/c. in terms of the final orders passed by the Supreme Court. The applicant submitted that this amount along with interest has not been duly re-credited to his account.

4. At our direction, the counsel for the respondents produced due and drawn statement and also produced statement regarding interest calculation on the Provident Fund from 1981 onwards. The respondents statement indicate that they have credited Rs.38,693/- for the period from 1981-1982 to 1997-1998 by way of additional interest. This is in addition to the amount re-credited by the respondents which was earlier withdrawn and paid to the applicant from 1981-85 in compliance with the interim order of the Gujarat High Court. On 05.03.1999, the Divisional Accounts Officer of the respondents appeared before us and produced the records also for perusal of the applicant. The counsel for the applicant perused the same. The respondents also stated that the complainant (Applicant) has also seen and accepted the position.

5. So far as payment of running allowance is concerned, the respondents filed a statement regarding the running allowance. The counsel for the

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applicant contends that the applicant is entitled to be paid at the rate of (@) 160 Km per day. Shri.Shevde, counsel for the respondents however, submits that the applicant is entitled to be paid only at the rate of (@) 120 Km per day in accordance with Para-914 of IREM Vol. I and accordingly, he has been paid. As regards interest on delayed payments, the counsel for the applicant submits that there was prolonged delay in the payment of back wages. In the circumstances, the interest should be paid on the back wages paid in 1992. The respondents, however, submit that there was further litigation before the Supreme Court till Sept'1991 and therefore there was delay. The respondents also state that the Tribunal while disposing of the O.A, did not make any order with regard to the payment of interest.

6. We have carefully considered the submissions of both sides and examined the pleadings. So far as the interest credits reflected in the Provident Fund Account of the applicant, the statement filed by the respondents show that a sum of Rs.38,693/- has been credited for by way of interest in addition to the re-credit of the amount withdrawn from the P.F. account. The applicant has not controverted the same.

7. As regards the payment of running allowance, the respondents paid only at certain rate which according to them is admissible under IREM. The applicants however, submits that he is entitled at a higher rate. The claim of running allowance involves certain genuine disputes which requires to be separately adjudicated. As regards claim for interest on the delayed

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payment of arrears of back wages, the counsel for the respondents refers to the judgement of the Tribunal in O.A. in which there was no reference to the payment of interest. After the reinstatement of the applicant, back wages were paid within a period of about four months. In the particular facts and circumstances, we reject the claim for interest.

8. The order of the Tribunal dated 14.04.1990 in this O.A. refers to the reinstatement of the applicant to the post and payment of back wages. The respondents accordingly reinstated the applicant, after some delay. So far as the payment of back wages is concerned, the respondents worked out the same in accordance with their own interpretation of the rules. The applicant has certain grievances with regard to the payment of running allowance. However, this grievance cannot be gone into in this C.A. If the applicant is still aggrieved, it is open to him to seek such remedies as may be available to him under law.

9. In the facts and circumstances, we hold that the respondents have fully complied with the order of this Tribunal and the C.A. is disposed of and the notice to the contemners discharged. No costs.

P. Kannan
(P.C. Kannan)
Member (J)

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V. Ramakrishnan
20/9/1990
(V. Ramakrishnan)
Vice Chairman