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Date of decision: November 1, 1991.

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Applicant.

Respondents.

M/s. M. M. Basu,
D. Patnaik
J. K. Mohapatra, Advocates.

Nr.D.N.Misra,
Standing Counsel (Railways)

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C O R A M:

THE HONOURABLE MR. K. P. ACHARYA, VICE-CHAIRMAN

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1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? *Ad*
3. Whether ^THis Lordship wishes to see the fair copy of the judgment ? Yes.

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No.254 of 1990.

Date of decision: November 1,1991.

J.M.Hatton ... Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... M/s.M.M.Basu,
D.Patnaik,
J.K.Mohapatra, Advocates.

For the respondents ... Mr.D.N.Misra,
Standing Counsel (Railways)

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C O R A M:

THE HONOURABLE MR.K.P.ACHARYA, VICE-CHAIRMAN

J U D G M E N T

K.P.ACHARYA, VICE-CHAIRMAN, In this application under section 19 of the Administrative Tribunals Act,1985, the applicant prays to direct the respondents to pay to the applicant interest at the rate of 10 per cent per annum and compensatory costs because of delayed payment of Death-cum-Retirement Gratuity, due to the husband of the applicant.

2. Shortly stated, the case of the applicant is that her husband L.M.Hatton died in harness while working as a Driver under the South Eastern Railway attached to the Loco,Bhadrak on 30.5.1988. The Death-cum-Retirement Gratuity and other retirement benefits were paid to the applicant at a very belated stage.

3. In their counter, the respondents maintained

that delay in payment was solely due to the laches on the part of the applicant and therefore, she is not entitled to any interest.

4: At the outset it may be mentioned that while I was in the midst of the hearing, an adjournment was sought for on behalf of Mr. M. M. Basu, learned counsel for the applicant and it was refused because I had already heard the case on merits at about 12 noon. In such circumstances, I have perused the pleadings of the parties, relevant documents forming subject matter of the case and I have heard Mr. D. N. Misra, learned Standing Counsel (Railways) for the respondents.

5. Mr. D. N. Misra, learned Standing Counsel (Railways) submitted that the applicant had filed an application under section 19 of the Administrative Tribunals Act, 1985 before this Bench, which formed subject matter of O.A. 355 of 1988 praying therein to order disbursement of G.P.F. amount of Mr. Hatton, amount due under Group Insurance Scheme and also Death-cum-Retirement Gratuity. Vide order dated 7.12.1988 and 12.12.1988 this Bench having passed an order restraining the respondents therein not to make any payment to anybody till the final disposal of the said application, the respondents did not disburse any amount in obedience to the said order passed by this Bench. Therefore, at the instance of the applicant, payment was delayed. In such circumstances, the respondents cannot be held responsible for non-payment and hence no decree should be passed in favour of the present applicant entitling her to any interest. All the above mentioned facts stated by

Mr.D.N.Misra are correct which have been found from the records of O.A.No.355 of 1983. However, the case was disposed of on 5.4.1989 and from Annexure-3, which is a letter issued by Senior Divisional Personnel Officer, S.E.Railway, Khurda Road to the applicant dated 5.3.1990 it is found that all papers in this regard were received from the applicant in the Office of the Senior Divisional Personnel Officer on 22.6.1989. The Death-cum-retirement gratuity was disbursed sometime in November, 1989. There is absolutely no explanation offered in the counter as to why delay occurred for disbursing the amount from 23.6.1989 till November, 1989. Mr. Misra, learned Standing Counsel submitted that it took some time to process and finalise the matter. Certainly, some time would be taken to process and finalise the matter but inordinate delay caused till November, 1989 is inexcusable especially keeping in view that Mr. Hatton died in May, 1983. In the case of State of Kerala and others v. N. Padmanavan Nair reported in 1985 (1) SCC 429, Their Lordships held as follows:

" Pension and gratuity are no longer any bounty to be distributed by the Govt. to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment. "

Furthermore, towards the later portion of the judgment Their Lordships indicated that interest at 12 percent per annum on the entire gratuity amount should be granted in favour of the person aggrieved. Soon after the receipt of the letter from the applicant on 22.6.1989, the matter could have been processed and finalised by 30.6.1989.

Therefore, in my opinion, the applicant is entitled to interest with effect from 1.7.1989 till the actual date of payment.

6. The next question arises for consideration is what should be the rate of interest. Ordinarily, relying on the dictum laid down by Their Lordships regarding the payment of interest, I would have granted ^{interest at the rate of} 12 per cent per annum but the applicant having claimed 10 per cent per annum, I think there is substantial force in the contention of Mr. Misra that in case any decree is passed in favour of the applicant, interest ~~not~~ more than 10 per cent should ~~not~~ be granted in her favour. Mr. Misra is justified in his contention ^{what} ~~as~~ as in the case of N. Padmanavan Nair (supra) though Their Lordships were inclined to grant interest at the rate of 12 per cent per annum but Their Lordships ~~did not~~ do so because the respondent before Their Lordships had not preferred any cross-objection before the High Court of Kerala demanding higher percentage of interest as only 6 per cent was granted by the trial court and the appellate court. In view of the aforesaid contention of Mr. Misra, I would therefore, direct that interest at the rate of 10 per cent per annum on the total amount of death-cum-retirement gratuity ^{to} ~~be~~ be paid to the applicant be calculated with effect from 1.7.1989 till the date of actual payment and paid to the applicant within 60 days from the date of receipt of a copy of this judgment.

7. Thus, this application is accordingly

disposed of leaving the parties to bear their own costs.


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VICE-CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
November | , 1991/Saranggi.