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**CENTRAL ADMINISTRATIVE TRIBUNAL, CUTTACK BENCH,
CUTTACK**

ORIGINAL APPLICATION NO.564 OF 1994

Cuttack, this the 7th day of November, 1997

Sri M.Muthu

Applicant.

Vrs.

Union of India and others

Respondents

FOR INSTRUCTIONS

1) Whether it be referred to the Reporters or not? *Yes*

2) Whether it be circulated to all the Benches of the Central
Administrative Tribunal or not? *No*

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
7.11.97

CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.564 OF 1994

Cuttack, this the 7th day of November, 1997

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

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Sri M.Muthu,
son of Sri Ponniah,
Retired M.D.M.-Junior III R.G.D.A.,
South Eastern Railway,
Rayagada, At/PO/PS/Dist. RayagadaApplicant.

Vrs.

1) Union of India, represented by
the General Manager,
South Eastern Railways,
Garden Reach,
Calcutta.

2) Divisional Engineer,
R.V.Section, S.E.Railways,
Visakhapatnam,
Andhra Pradesh.

3) Divisional Personnel Officer-II,
South Eastern Railway, Waltair,
Andhra Pradesh.

4) Senior Divisional Accounts Officer,
South Eastern Railways, Waltair,
Andhra Pradesh.

5) Accounts Officer,
For F.A. & C.A.O.(Pen),
South Eastern Railways,
Garden Reach,
Calcutta-43.

6) Divisional Railway Manager (P),
Waltair, Andhra Pradesh

For the applicant - M/s S.K.Dey,
B.B.Patnaik &
G.N.Padhi.

For respondents - M/s B.Pal & O

For respondents -

M/s B.Pal & O.N.Ghosh

SOMNATH SOM, VICE-CHAIRMAN

In this application under Section 19 of Administrative Tribunals Act, 1985, the applicant has prayed for a direction to the respondents to pay the dues of the applicant within a specific time period to be fixed by the Tribunal along with interest at 12% per annum.

2. The applicant's case is that he was working as a Truck Driver in the S.E.Railway at Rayagada. In his letter dated 7.5.1992, which is at Annexure-1, he sought for voluntary retirement with effect from 5.8.1992, i.e., after three months notice. Annexure-2 is a letter dated 15.2.1993 from Divisional Personnel Officer to whom apparently the applicant had complained about his request of voluntary retirement not having been accepted. Divisional Personnel Officer in his letter to A.E.N., Rayagada, directed the latter to process the case quickly. Ultimately, in order dated 21.7.1993 (Annexure-3) the applicant was voluntarily retired with effect from 5.8.1992. The applicant's case is that in spite of he being retired voluntarily with effect from 5.8.1992 his retirement dues were not paid in time and that is why he has come up with the aforesaid prayer.

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3. Respondents in their counter have stated that the applicant, who was employed as a Gangman under P.W.I., Rayagada, gave notice on 7.5.1992 seeking voluntary retirement

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from 5.8.1992 and accordingly the notice was accepted and he was retired from 5.8.1992 by order dated 21.7.1993. As regards the dues, the respondents have stated that provident fund amount at the credit of the applicant had not been paid because the details about provident fund balance had not been received from different units. As regards CGEGIS dues of Rs.3738/-, the respondents have stated that this has been passed for payment on 24.12.1993, but there is no clear averment that the amount has actually been paid and on which date. As regards pension, the respondents have stated that pension of Rs.452/- per month with effect from 6.8.1992 has been paid under orders dated 20.1.1994 and the applicant is getting pension regularly. On commutation of pension and leave salary, the respondents have stated that the applicant has not opted for commutation of pension and therefore, no amount is payable on this account. Regarding leave, it has been stated that the applicant did not have leave at his credit and so the encashment of leave could not be done in his case. The applicant was due to get an amount of Rs.18,000/- towards D.C.R.G., but the same has not been paid to him because an amount of Rs.3614/- is due to be recovered from him because of over-payment, Rs.588/- towards electricity charges and penal rate of house rent of Rs.24,418/-. As regards penal house rent, the respondents have further explained that while the

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applicant was working at Koraput, he was transferred to Jagadalpur on 24.1.1973. On his transfer to Jagadalpur, he did not vacate Railway quarter at Koraput in spite of several notices and accordingly, the amount of penal rent has been assessed. The detailed calculation of penal rent has been provided by the respondents in Annexure-R/1 attached to the counter. On the above grounds, the respondents have opposed the prayer of the applicant.

4. I have heard the learned lawyer for the applicant and the learned counsel appearing on behalf of the respondents and have also perused the records.

5. From the above recital of facts, it is seen that the applicant had not been paid his G.P.F. dues till the time of filing of counter on 28.1.1995 even though the applicant was retired with effect from 5.8.1992. The reason for this, according to the respondents, is that the provident fund balances from different stations where the applicant had worked had not been received by them. The applicant was retired with effect from 5.8.1992 and according to the Rules, after four months of that period, provident fund amount at his credit will not bear any interest. In this case, after the applicant gave notice on 6.5.1992, the respondents should have checked up the position of provident fund amounts lying at his credit. The fact that even after passage of three years the

*Complaint filed
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provident fund dues have not been paid means that the applicant has been denied interest on the amount after four months of his retirement. In view of this, it is ordered that the provident fund amount, if not already paid, should be paid to the applicant within a period of 90 (ninety) days from the date of receipt of copy of this order by the respondents. This amount will bear interest at 12% per annum after expiry of four months from 5.8.1992 because the failure to pay the amount is squarely attributable to the respondents.

6. As regards CGEGIS amount of Rs.3738/-, in the counter the respondents have merely stated that the amount has been passed for payment. During hearing the learned counsel appearing on behalf of the respondents was not able to indicate if the amount has actually been paid so far. If the amount has not been paid, then the same should be paid within a period of 90(ninety) days from the date of receipt of copy this order. In case the amount has been paid, then the respondents will be liable to pay interest at the rate of 12% which is the normal rate of interest allowed on the amount after expiry of four months from 5.8.1992, i.e., from 5.12.1992 till the date of payment.

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7. As regards D.C.R.G., I have looked into Annexure-R/1. This gives a detailed account how the amount of

Rs.32,799.14 has been arrived at and no fault can be found with that. Deducting from the above an amount of Rs.8,381/-, which had already been recovered from the applicant, the net amount payable has been worked out at Rs.24,418.00. From Annexure-R/1, however, it is clear that all the amounts which might have been recovered from the applicant in different stations where he had worked towards house rent at penal rate for the quarters retained by him at Koraput, might not have been taken into account. This letter is from Inspector of Works, Koraput to Divisional Personnel Officer, Waltair, in which in the last paragraph, a request has been made to find out the recovery particulars from other units and the balance, if any, should be adjusted. In view of the above position, it is ordered that the respondents should, within a period of ninety days from the date of receipt of copy of this order, obtain the recovery particulars from the units where the applicant had worked and where penal rent might have been deducted from his salary and reflect the amount if the same had not been taken note of in the amount of Rs.8,381/- and work out his net liability accordingly. After this is done within a period of ninety days, any net balance amount of gratuity, if payable to the applicant, should be paid to the applicant within 60 (sixty)

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days thereafter. But as for the delay in finalising the payment of gratuity the applicant is partly responsible by his not vacating the quarters, no interest will be payable to him if the amount is paid within 150(one hundred and fifty) days as mentioned above.

8. During hearing of the petition, the learned lawyer for the applicant also made a claim for payment of interest on pension. The applicant was retired with effect from 5.8.1992 in office order dated 21.7.1993. Pension was sanctioned to him in order dated 20.1.1994, i.e., within six months of the order dated 21.7.1993. I am not inclined to grant any interest on the pension amount firstly because this is not a case of regular superannuation which could have been anticipated by the respondents beforehand, and secondly because the applicant has also not indicated the date on which the pension papers have been submitted by him. His retirement on invalidation was approved in order dated 21.7.1993 and within six months pension was sanctioned. Under the facts and circumstances of this case, this period cannot be said to be unreasonably long and therefore, no interest is allowed on the pension amount.

*Yours faithfully
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9. In the result, therefore, the application is allowed in terms of the directions and observation in

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paragraphs 5 to 8 of this order. There shall be no order as to costs.

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VICE-CHAIRMAN

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