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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.794 OF 1995
Cuttack, this the 23rd day of June, 1997

Ramji Rao Govind Rao Patil 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 23.6.97

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.794 OF 1995
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C O R A M :

HON'BLE SRI SOMNATH SOM, VICE-CHAIRMAN.

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Ramji Rao Govind Rao Patil,
Ex-IOW, Gr.II,
S.E.Railway, Chakradharpur,
at present Vill-Dhamadipa, P.O-Ektali,
District-Jharsuguda

Applicant.

-versus-

1. Union of India, represented by
the General Manager,
South Eastern Railway,
Garden Reach, Calcutta-700 043.

2. Divisional Railway Manager,
Chakradharpur Division,
S.E.Railway.

3. Senior Divisional Personnel Officer,
Chakradharpur, S.E.Railway

Respondents.

Advocates for applicant - M/s G.B.Jena &
S.Das.

Advocate for Respondents - M/s D.N.Mishra & S.K.Panda.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN.

In this application under Section 19 of the
Administrative Tribunals Act, 1985, the applicant has prayed
for release, within a specified period, of ^{his} Death-cum-Retirement
Gratuity (D.C.R.G.) dues amounting to Rs.38,940/- along with
penal interest from the date of accrual till the date of payment.

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2. Facts of this case are that the applicant superannuated as Inspector of Works, Grade- II, on 31.7.1991. On 5.8.1991 he got his retirement dues, i.e., leave salary, provident fund, C.G.E.I.S. as well as commuted value of pension. On the same day, he got a letter issued by Divisional Accounts Officer, S.E. Railway, Chakradharpur Division, (Annexure-3) giving details of his monthly pension and family pension. In this letter, it was also mentioned that he was entitled to D.C.R.G. of Rs.38,940/-. In this letter, which was issued by Divisional Accounts Officer, S.E. Railway, Chakradharpur, the Divisional Personnel Officer, S.E. Railway, Chakradharpur, was asked to furnish a Pay Order DCRG certified for Rs.38,940/- along with "No Demand Certificate". Copy of this letter was sent to F.A. & C.A.O., S.E. Railway, Calcutta. It seems that in spite of this, the D.C.R.G. was not released in favour of the applicant till he filed this application on 20.12.1995.

3. The respondents in their counter have pointed out that the applicant has been paid D.C.R.G. for an amount of Rs.33,995/- in a cheque dated 17.3.1997. This has been received by the applicant on 22.3.1997. The respondents have further stated that they have deducted an amount of Rs.3449.90 from his D.C.R.G. towards arrears of house rent including damage rate of rent and an amount of Rs.1500/- has been kept in deposit for adjustment of dues towards electrical current charges. Total of these two figures comes to Rs.4949.90, but actually the amount deducted and held back is Rs.4945/-. As regards the delay in releasing the D.C.R.G., the respondents have taken

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the plea that the applicant did not submit the quarter vacation intimation and "No Demand Certificate" was not received from the departmental officer in Sambalpur and therefore, D.C.R.G. was not released. They have contended that the applicant was in charge of Store and therefore, D.C.R.G. was held up because of non-receipt of "No Demand Certificate". It is further submitted by the respondents that though the applicant retired from Sambalpur Division which was newly created then, the retirement benefits were to be sanctioned from Chakradharpur Division. That also apparently contributed to delay. To the applicant's averment that for getting the D.C.R.G. sanctioned he made several representations to the authorities at Chakradharpur and Sambalpur and made frantic efforts for getting his dues sanctioned, the respondents' reply in the counter is worthquoting:

"...Frantic efforts without submission of the required document was (sic) neither necessary nor purposeful..."

The above are simple facts of the case involving delay in sanction of gratuity to a retired Railways employee for about six years. The claim of the applicant has to be considered in the context of the above facts.

4. I have perused the record and have also heard Sri G.B.Jena, the learned lawyer for the applicant, and Sri D.N.Misra, the learned counsel appearing on behalf of the respondents.

5. It would be worthwhile first to deal with the withheld amounts. As regards deduction of Rs.1500/-, this amount has been kept in deposit for adjustment of dues towards electrical current charges. It is admitted by the respondents in the

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counter that the applicant vacated his quarter on 30.12.1991. Within a few months thereafter, the respondents should have deducted the actual charges for electricity consumed by him and the balance amount, if any, should have been released to the applicant. This should be done within a period of 60(sixty) days from the date of receipt of copy of this order, failing which, on the returnable amount, if any, the respondents should pay interest at the rate of 12% per annum thereafter till the date of actual payment of the returnable amount.

6. As regards deduction of Rs.3449.90 towards rent for the quarter occupied by the applicant after his retirement, here again it is necessary to quote the relevant portion of the counter:

"....The applicant **retained** Railway quarter during the period from 1.8.91 to 30.12.91 after his retirement but without obtaining any sanction to retaining the same. Hence the applicant was liable to pay damage rate of rent."

From the above statement in the counter, it is clear that the deduction of the above amount is for retention of the quarter from 1.8.1991 to 30.12.1991, i.e., one day less than four months. It has been submitted by the learned lawyer for the applicant that the petitioner actually obtained sanction for retaining the quarter for four months after his retirement on 31.7.1991. But no such order has been produced by him. Be that as it may, the rules are clear that a Government servant after retirement is entitled to keep the quarter for four months. In case a formal sanction order has not been issued, it is merely a procedural **irregularity**. The respondents should have on their own issued that order instead of imposing damage rate of rent on a retiring

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employee who has strictly followed the rules. As a matter of fact, he has occupied the quarter one day less than four months.

In view of this, imposition of damage rate of rent cannot be countenanced and is quashed. The respondents should calculate the rent payable by the applicant for occupation of the quarter after retirement from 1.8.1991 to 30.12.1991 in accordance with rules taking that sanction was given for occupation of the quarter for this period. The rent so calculated should be adjusted from this withheld amount of Rs.3449.90 and the balance amount should be paid to the applicant within a period of 60(sixty) days from the date of receipt of copy of this order, failing which the respondents should pay interest at the rate of 12% per annum on the returnable amount till the date of payment.

7. The only other point is about claim of penal interest on the balance amount of Rs.33,995/- for which a cheque was issued by the respondents on 17.3.1997. The point is whether any interest is to be allowed on this amount because this undisputed amount has been paid after more than five years and seven months of the date of superannuation. From paragraph 4 of the counter, it appears that this was held up because "No Demand Certificate" was not received from the departmental officer in Sambalpur Division. From the averment in the counter itself, it is clear that it was the responsibility of the departmental authorities to issue "No Demand Certificate" which apparently was delayed. The applicant has made several representations, two of which have been annexed to the application, in which he has claimed that he was not directly in charge of the Store but was in subordinate

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charge. Therefore, the delay of more than five years and seven months must be held to be a case of abnormal delay during which the applicant has been kept away from the dues which rightfully belonged to him. I have taken note of the fact that the applicant retired from Sambalpur Division which was then newly created and the retirement benefits had to be issued from Chakradharpur Division under which he was working earlier. That might have contributed, to some extent, towards the delay. For this reason, I hold that the respondents could have taken maximum one year after the superannuation of the applicant, i.e., upto 31.7.1992 for payment of this undisputed amount of D.C.R.G. For the remaining period, i.e., from 1.8.1992 to 16.3.1997, i.e., the date preceding the day on which the cheque was issued, the respondents should pay interest to the applicant on this amount of Rs.33,995/- at the rate of 12% per annum, which should be calculated and paid to the applicant within a period of 90 (ninety) days from the date of receipt of copy of this order.

8. In the result, therefore, the application is allowed in terms of the observations and directions made in paragraphs 5, 6 and 7 of this order. There shall be no order as to costs.

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VICE-CHAIRMAN