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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.412 OF 1996
Cuttack, this the 14th day of May, 1998

G.V.Suryanarayana 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.

14-5-98
(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
14-5-98

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.412 OF 1996
Cuttack, this the 14th day of May, 1998

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER (JUDICIAL)

G.V.Suryanarayana,
s/o G.V.Avadhani,
aged 61 years
Retired Station Superintendent
of Jagannadhapur,
Divisional Operating Manager's Office,
s.E.Railway,
Khurda Road,
residing at MIG-I-B/4,
M.V.P.Colony, Visakhapatnam-17 Applicant

By the Advocate - M/s Y.Subramanyam & P.K.Chand.

vrs.

Union of India represented by

1. Divisional Railway Manager,
S.E.Railway, Khurda Road.
2. Senior Divisional Personnel Officer,
S.E.Railway, Khurda Road.
3. Senior Divisional Commercial Manager,
S.E.Railway,
Khurda Road.
4. Senior Divisional Operating Manager,
S.E.Railway,
Khurda Road

By the Advocate - M/s P.C.Panda & B.Pal.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

In this application under Section 19 of Administrative Tribunals Act, 1985, the petitioner has prayed for paying him leave salary with 18% interest and

over-time allowance due for the period 20.2.1994 to 2.4.1994 for 60 hours with interest. The third claim is regarding payment of interest on DCRG from 1.5.1994 to 17.12.1995 and for refund of Rs.1000/- recovered from DCRG along with 18% interest.

2. Facts of this case are not in dispute. The petitioner retired as Station Superintendent, Jagannathpur Railway Station with the pay of Rs.2900/- in the scale of Rs.2000-3200/- on 30.4.1994 Senior Divisional Personnel communicated in his letter dated 12.4.1994 (Annexure-A/1) that he had 88 days of Leave on Average Pay (LAP) and 37 days of Half Pay Leave (HPL) at his credit. The petitioner states that on account of encashment of LAP he was entitled to get Rs.15,230/-, but only an amount of Rs.599/- was paid to him and therefore, there was short payment of Rs.14,631/- which he has asked for with interest. The petitioner further states that from 20.2.1994 to 5.3.1994 he had worked over time for 20 hours, and from 6.3.1994 to 19.3.1994 he had put in over time for another 20 hours and from 20.3.1994 to 2.4.1994 for another 20 hours. For performing ~~duty~~ over ^{J Jam.} ~~duty~~ time of 60 hours, as indicated above, he was due to be paid Rs.2880/-. For this he had submitted representation dated 21.7.1995 addressed to Divisional Railway Manager, Khurda Road, but no payment has been made. The applicant further

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states that payment of gratuity of Rs.57,420/- was held up due to communication of debits not pertaining to the applicant. This was explained fully by the applicant in his representation dated 15.5.1995 at Annexure-A/4. In spite of this, the payment was not made till 18.12.1995. While making the payment on 18.12.1995, an amount of Rs.1000/- was held back and thus he has claimed interest on the amount of Rs.57,315/- at 18%. He has also claimed that amount of Rs.1000/- held back from his gratuity should be paid along with interest thereon.

3. Respondents in their counter have stated that the petitioner retired on superannuation as Station Superintendent, Jagannathpur Railway Station, on 30.4.1994 and he vacated his quarter on 14.5.1994, i.e., within fifteen days. The respondents have stated that immediately after retirement on 30.4.1994 all retiral benefits such as leave salary, last wages, CGEGIS, provident fund and commuted value of pension were paid to him, except DCRG. The respondents in their counter have explained each claim of the petitioner in detail. As regards LAP, the respondents submit that in the retirement memo it was mentioned that he has got 88 days of LAP. But on verification of the Service Sheet, it was certified that he had 87 days LAP at his credit. For encashment of this period of 87 days, an amount of Rs.17,156/- was due to have been paid to the applicant.

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But it was certified that an amount of Rs.16,557/- has been paid in excess to the petitioner during his service career and accordingly, this amount of Rs.16,557/- was deducted from the above amount of Rs.17,156/- and the balance amount of Rs.599/- was paid to the applicant in Bill No.52 prepared on 18.4.1994, i.e., even before retirement of the applicant.

As regards over time allowance, the respondents have stated that over time vouchers had not been received by them. As regards deduction from DCRG, the respondents have stated that while the applicant was in service he had worked in different Divisions and in different Stations from time to time in Khurda Road Division. During his service career the applicant had dealt with commercial working connected with Railway earnings from 1956 to 1994 till his superannuation.

Therefore, before payment of DCRG clearance from Commercial Department as well as Railway quarter clearance were required. Ultimately the Senior Divisional Commercial Manager, S.E.Railway, Khurda Road Division, in his letter dated 31.5.1995 (Annexure-R/1) intimated recovery of Rs.19/- from him towards goods debit and coaching debit. Another Rs.82/- was ordered to be recovered towards consumption of electricity charges vide details at Annexure-R/2. Thus the total amount came to Rs.101/-. This amount of Rs.101/- plus another Rs.1000/- was deducted from the total DCRG amount of Rs.57,420/- and the balance amount of Rs.56,319/- was paid

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to him. The date of payment has not been indicated by the respondents. As regards Rs.1000/- held back from his gratuity, the respondents have further stated that house rent arrear of Rs.696/- was required to be recovered from the applicant vide details at Annexure-R/4, copy of which was given to him, and after deducting Rs.101/- and Rs.696/-, in total .797/- from his DCRG of Rs.57,420/-, a net amount of Rs.56,623/- has been paid to the applicant with due diligence and promptly and on that ground they have opposed the payment of interest. A stand has also been taken in paragraph 8 of the counter that the petitioner has come up with prayer for multiple remedies.

4. The petitioner in his rejoinder has submitted that the details of excess payment of Rs.15,551/- allegedly made to the petitioner during his service career was not indicated to him during his entire service career and without any notice to him, this amount has been illegally deducted from his salary. As regards overtime payment, the petitioner has submitted that the vouchers were sent through the Commercial Controller (Coaching) Shri A.Bhagavati Rao in absence of Sectional Commercial Inspector and in the representation made by the petitioner on 21.7.1995 (Annexure-A/3) this fact was also mentioned. The Personnel Officer was reminded on 12.12.1995 and non-payment

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certificate was issued, but no action was taken for payment of the above amount. On the question of delay in payment of gratuity, the petitioner has submitted that the averment made by the respondents that he had worked in different Divisions and in different Stations of Khurda Road Division is absolutely wrong. The petitioner's case is that he has worked only in Khurda Road Division during his entire service career from 28.12.1957 till 30.4.1994 and there was no occasion for him to work in any other Division. As regards the respondents' plea that in Khurda Road Division, he had worked in various Railway Stations, the applicant has stated that in Khurda Road Division he has worked only in three Railway Stations, from 1961 to 1965 at Humma Station, from 1976 to 1988 at Sompeta Railway Station, and from 1992 till April 1994 at Jagannathpur Railway Station. From 1957 to 1961, from 1965 to 1976 and from 1988 to 1992 he had worked at Non-Commercial Stations where no debits could have accrued against him. Notwithstanding this, debits amounting to Rs.7 Lakh not pertaining to the petitioner were raised against him and communicated to him on 15.12.1994, i.e., eight months after his retirement, and the applicant after his retirement had to run from pillar to post to prove that none of these debits related to him and ultimately these debits against him were dropped. The applicant has stated in

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his rejoinder that for the delay in obtaining debit clearance, the respondents are solely responsible and the claim of interest is fully justified. Regarding recovery of Rs.696/- as arrears of house rent, the petitioner has stated that these relate to brief spells from 1976 to 1979, 1988-89 and 1990 to 1992. But these claims were never made during his service career and the petitioner has prayed that the respondents be directed to submit pay bills to prove that no double recovery is being made.

5. We have heard Shri Y.Subramaniyam, the learned lawyer for the petitioner, and Shri B.Pal, the learned Senior Counsel appearing on behalf of the respondents, and have also perused the records.

6. The respondents have admitted that by way of encashment of leave salary for 87 days, an amount of Rs.17, 156/- was due to have been paid to the applicant, but they have deducted a sum of Rs.16,557/- which was excess payment made to the petitioner during his service career. We see much force in the contention of the petitioner that during his entire service career, this amount of Rs.16,557/- was never put to him and he has also not been given any opportunity to know what this amount represents and if this amount is legally recoverable from him. In view of this, this part of the prayer of the petitioner is disposed of

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with a direction to the respondents that within a period of 30 (thirty) days from the date of receipt of copy of this order, they should indicate the full details of Rs.16,557/- representing alleged excess payment made to the applicant. The applicant is directed to intimate to the respondents within 30 (thirty) days from the date of receipt of these details, such of the amounts which are accepted by him and contest in respect of the amounts which are not admitted by him. Within 30 (thirty) days thereafter the respondents should pass appropriate orders on the representation of the petitioner. Needless to say that the petitioner will have liberty to approach the Tribunal in case he is aggrieved by the order on his representation. In view of our above direction, the question of payment of the withheld amount of Rs.16,557/- and interest thereon at this stage does not arise.

7. The second prayer is regarding payment of Over Time Allowance (OTA) for 60 hours from 20.2.1994 to 2.4.1994. The respondents have stated that over time vouchers have not been received by them. The petitioner, we find, has addressed a representation to the Divisional Railway Manager on 21.7.1995 indicating the details of the duties on which 60 hours over-time work has been done by him. The petitioner has also mentioned that over-time vouchers were submitted through the Commercial Controller

(Coaching), Shri A.Bhagavati Rao in the absence of Sectional Commercial Inspector. On receipt of the representation of the petitioner, his claim should have been investigated and a communication sent to him. As this has not been done, the Railways cannot escape their liability with regard to this payment. The petitioner's case is that he has submitted the vouchers through proper channel. The Railways have stated that these have not been received. In view of this, little purpose would be served by directing the Railways to search out the vouchers and make payment. The amount is also small and the over-time of 60 hours covers 42 days and cannot be said to be excessive. In consideration of this, the respondents are directed to make payment of Rs.2880/- to the petitioner within a period of 60 (sixty) days from the date of receipt of copy of this order. As we are allowing this amount without any further enquiry by the Railways, we do not feel that in this case any interest should be allowed. The claim of interest on this amount is rejected.

8. The third item is about payment of DCRG. Normally DCRG should have been paid to the petitioner shortly after his retirement. The date of retirement of the petitioner was known and the departmental authorities should have checked up about the outstanding commercial debits against him. But, on the other hand, it is only after

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retirement that huge amounts of commercial debits were raised against him, most of which were ultimately dropped. From the letter at Annexure-R/1 we find that the Railways raised huge amounts of debits against the petitioner. One amount is of the value of Rs.7,43,815/-. There are other amounts ranging from Rs.1430/- to Rs.9871/-. The petitioner has stated that these were communicated to him long after his retirement in letter dated 9.12.1994 and he had to run from pillar to post for getting all these debits dropped and ultimately only an amount of Rs.19/- has been held to be recoverable from him. The petitioner has filed a representation to the Divisional Railway Manager on 15.5.1995 (Annexure-A/4) in which he has pointed out that some of these debits relate to the period when he was not at Jagannathpur Railway Station and from the respondents' letter dated 31.5.1995 (Annexure-R/1) it is seen that some of the debits which were communicated to the petitioner in letter dated 9.12.1994 were cleared in February 1992 and September 1992. In spite of this, these debits were raised against the petitioner in December 1994. The debit of Rs.7,43,815/- was cleared in May 1994. From the above recital of facts, it is clear that the respondents have unthinkingly raised debits against the petitioner and withheld his gratuity for more than one year and seven months. The respondents' statement that the applicant had worked in different Divisions and different Stations in Khurda Road Division does not also

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appear to be correct because from 1957 to 1994 he has worked in Khurda Road Division only and the applicant has never worked in any other Division. Moreover, in Khurda Road Division in commercial side he has worked only in three Railway Stations in his service career. As such, checking up the outstanding debits against the petitioner should not have taken such a long time. In view of the above, we hold that the petitioner is entitled to get interest on his DCRG amount. But the petitioner has claimed interest from the day following his date of retirement. This is not allowable because the respondents must be given some time to clear the papers and pay him the gratuity. In consideration of the fact that certain commercial debits were raised against him though most of them were without any basis and the petitioner vacated the quarter only on 14.5.1994, obviously he cannot claim interest from 1.5.1994. We hold that under the facts and circumstances of the case, six months time is reasonable for the respondents to pay the gratuity to the applicant. In view of this, we allow interest at the rate of 18% from 1.11.1994 till 17.12.1995 on the gratuity amount of Rs.56,623/- which has been paid to the petitioner on 18.1.1995. The respondents are directed to make payment of this amount within 60 (sixty) days from the date of receipt of copy of this order.

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9. As regards deduction of Rs.1000/-, it is the standard practice sanctioned by rules that for unforeseen liabilities to be recovered from a retiring Government employee, an amount of Rs.1000/- is deducted from the gratuity. This is a universal practice. In the instant case, out of this amount of Rs.1000/-, the arrear house rent of Rs.696/- along with another amount of Rs.101/- has been deducted and the balance amount has already been paid to the petitioner. In view of this, nothing further remains to be paid to the petitioner. The claim of interest on this balance amount is held to be without any merit and the same is rejected.

10. The petitioner has contested recovery of Rs.696/- as arrear house rent. From Annexure-R/4, we find that out of this, Rs.22.58 paise relates to his occupation of quarter from 1.5.1994 to 14.5.1994 after his retirement at normal rate and the details of balance amount of Rs.673.48 have been given in the enclosure to Annexure-R/4, copy of which has also been given to the petitioner. From this, it appears that most of these amounts relate to wrong calculation of rent and arrears have been calculated at the rate of Rs.3.50 paise, Rs.13/- or Rs.8/- over and above the amount which has been paid to the petitioner. As copy of this has been given to the petitioner, we feel that little purpose

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would be served to keep this issue alive any further and the prayer of the petitioner for a direction to the respondents to give him further details of these amounts is held to be without any merit and the same is rejected.

11. In the result, therefore, the petition is partly allowed in terms of the direction and observation in paragraphs 6 to 10 above. No costs.

14.5.98
(G.NARASIMHAM)

MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN 14.5.98

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