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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 392 OF 2002
Cuttack, this the 12th day of November, 2003.

SRI SAMUAL MOHARANA. APPLICANT
:VRS:
UNION OF INDIA & OTHERS. RESPONDENTS.

FOR INSTRUCTIONS

1. whether it be referred to the reporters or not? *No*
2. whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *No*

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(SMT. BHARATI RAY)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.892 OF 2002
Cuttack, this the 12th day of November, 2003

C O R A M :-

THE HONOURABLE SMT. BHARATI RAY, MEMBER (JUDICIAL).

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SRI SAMUAL MOHARANA,
Aged about 66 years,
S/o. Late Sradha Nidhi Moharana,
retired as Chief Goods Supervisor
Sambalpur under Divisional Traffic Manager,
South Eastern Railway, Sambalpur and
residing at Hill Patna, Berhampur-5,
District-Ganjam, PIN- 768 005.

APPLICANT.

By legal practitioner : Mr. Achintya Das,
Advocate.

- Versus -

1. Union of India service through General Manager,
South Eastern Railway, Garden Reach, Kolkata-43.
3. Member Staff, Railway Board, Railway Bhavan,
New Delhi.
3. Divisional Railway Manager, S.E. Railway,
Sambalpur, PO: Medipara, Sambalpur-2,
PIN- 768 002.
4. Divisional Personnel Officer,
S.E. Railway, Sambalpur,
PO: Medipara, Sambalpur-2,
Pin- 768 002.

RESPONDENTS.

By legal practitioner : Mr. C. R. Mishra,
Additional Standing Counsel
(Railways).

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O R D E R

SMT. BHARATI RAY, MEMBER(JUDICIAL) :-

Heard Mr.Achintya Das,Learned Counsel appearing for the Applicant and Mr.C.R.Mishra,Learned Additional Standing Counsel appearing for the Railways/ Respondents and perused the materials placed on record. I have also gone through the judgment delivered by this Tribunal in Original Application No. 75 of 1995,dated 18th June, 2001.

2. The un-disputed facts of the case are that the Applicant was put under suspension with retrospective effect from 01-09-1994 by order dated 21-09-1994.A major penalty charge-sheet was also issued to the Applicant on the said date.Applicant retired from Government service, on attaining the age of superannuation on 30-11-1994.Applicant approached this Tribunal earlier in Original Application No. 75 of 1995 for quashing the order of suspension and the charge-sheet issued to him.The said Original Application was disposed of by this Tribunal on 18th June, 2001 with the following orders:-

*6. In view of the above and particularly because of the inordinate delay,we find that continuation of the disciplinary proceedings any further against the Applicant is not legally permissible.we,

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therefore, quash the charge and the disciplinary proceedings against the applicant. The Applicant will be entitled to his retiral dues according to rules. As the disciplinary proceedings have been quashed by us, the applicant will also be entitled to salary during the period of suspension. These amounts should be paid to the applicant within a period of 120 (one hundred twenty) days from the date of receipt of copy of this order, minus the amounts which have already been paid*.

3. Pursuant to the order of this Tribunal, the Respondents have withdrawn the charge-memo dated 21-09-1994 by order dated 25-09-2001 under Annexure-A/2 to this Original Application. Respondents have also released all the retirement dues of the Applicant under Annexure-A/3 dated 12-11-2001. The Applicant has, therefore, approached this Tribunal in the present Original Application praying for payment of interest on the delayed payment of retirement benefits.

4. It is the specific case of the Applicant that since the charge-memo has already been withdrawn by the Respondents, the Applicant is entitled to interest on the delayed payment of the retirement dues, which were due to the Applicant, immediately after the date of his retirement. In support of his contention, he has drawn my attention to the Railway Board's letter N.O.F(E) III/79/PN-1/15 dated 15.4.1991 (Annexure-A/6), N.O.F(E) III/97/PN1/6 dated 13.6.1997(Annexure-A/7) and letter dated 27.6.2002(Annexure-A/8) which envisages

that "in such cases if the Railway servant is exonerated of all charges and where the gratuity is paid on the conclusion of such proceedings, the payment of gratuity will be deemed to have fallen due on the date following the date of retirement." It has further been provided that if the payment of gratuity has been authorised after three months from the date of retirement, interest shall be allowed beyond the period of three months from the date of retirement. Learned Counsel for the Applicant has also drawn my attention to the decision of the Jodhpur Bench of the Central Administrative Tribunal rendered in Original Application No. 263/97 on 22.3.1999 in the case of AMRIT LAL BORANA VRS. UNION OF INDIA AND OTHERS; wherein this Tribunal has granted 12% interest on the delayed payment of retiral dues of the applicant therein alongwith a cost of Rs. 5000/- for the harassment and mental agony suffered by the applicant. It is the contention of the learned Counsel for the Respondents that in the case of Amrit Lal (supra) relied on by the Applicant is not applicable to the present case because the applicant therein was exonerated from the charges. It is also submitted by the Learned Counsel for the Respondents that the Railway Board's instructions relied ^{upon} by the Applicant is also in relation to the case; where the charged employee was exonerated from the charges. Therefore, the Rules, Railway Board's instructions as well as judgment relied upon by him ^{are} application to the present case.

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It is the case of the Respondents that soon after the orders of this Tribunal was passed, the Respondents have taken necessary steps and made the payment to the Applicant, within ~~the~~ stipulated time. Therefore, the Applicant is not entitled to get any interest on the retirement dues and the application is liable to be rejected.

5. The only question that arises for consideration in this Original Application is as to whether the Applicant is entitled to get any interest on the payment made by the Respondents after the order of this Tribunal in O.A.No. 75 of 1995 on 18.6.2001. It is true that it is not a case that the Applicant has been exonerated from the charges. Going through the judgment of this Tribunal in O.A.No. 75 of 1995, I find thatat paragraph 5 of the Judgment, it has been held by this Tribunal that the single charge framed against the Applicant is itself vague and with thatview and because of the inordinate delay in ~~initiating~~ ^{completing} the disciplinary proceedings, the Tribunal held that the disciplinary proceedings is not legally permissible and quashed the charge and the proceedings, by this Tribunal.

6. In view of the above facts and circumstances, the Applicant, can in no way be said to be responsible for the delay in completing the disciplinary proceedings. In fact, the Applicant was made to suffer harassment, financial loss and mental agony due to the action/inaction on the part of the Respondents. Such being the case, it cannot

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be said that the Respondents are not at fault in not paying the retirement dues in time. The Hon'ble Supreme Court in its judgment reported in AIR 1985 SC 356 (STATE OF KERALA AND OTHERS VRS. M.PADMANABHAN NAIR) have held that "Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but are 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".

7. In view of the facts and circumstances of the case and in view of the judgment of the Hon'ble Supreme Court, I am of the view that this Applicant is entitled to interest on the delayed payment of his retirement dues. I, therefore, direct the Respondents to pay the Applicant interest @ 12% per annum from the date of his entitlement till the date of actual payment made.

8. In the result, the Original Application is allowed. There shall be no order as to costs.

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(SMT. BHARATI RAY)
MEMBER(JUDICIAL)

KNM/CM.