

CENTRAL ADMINISTRATIVE TRIBUNAL:
CUTTACK BENCH: CUTTACK

Original Application No. 1026/2002

Cuttack this the day of 10th September, 2003

Gunanidhi Chhotaray, aged about 61 years,
S/o late Khetrabashi Chhotray, resident of
Bidanasi, Cuttack, Ex-Production Executive
of All India Radio, Cuttack,
At/PO-Bidanasi, Town & Dist. Cuttack

.... Applicant

Versus

Union of India and Others

.... Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

Ys

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(B. N. SOM)

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CORAM :

THE HON'BLE SHRI B. N. SOM, VICE CHAIRMAN

Gunanidhi Chhotaray, aged about 61 years,
S/o Late Khetrabashi Chhotray, resident of
Bidanasi, Cuttack, Ex-Production Executive
of All India Radio, Cuttack, At/PO-Bidanasi,
Town & Dist-Cuttack.

..... Applicant

Advocate for the Applicant:- Mr. Akhay Mishra

Versus

1. Union of India represented through
Director General (Prasara Bharati
Govt. of India), All India Radio,
Akashbani Bhawan, Parliament Street,
New Delhi-110001.

2. Pay & Accounts Officer,
All India Radio, Akashbani Bhawan,
Eden Garden, Kolkata-700001.

3. Station Director (Commercial Broadcasting
Service), All India Radio, Cuttack,
At/PO-/Town/Dist.Cuttack.

.... Respondents

Advocate for the Respondents:- Mr. S.B.Jena, Addl. Standing Counsel

O R D E R

MR. B. N. SOM, VICE CHAIRMAN:

This Original Application No.1026/2002 has been filed by Sri Gunanidhi Chhotaray assailing the in-action of the Respondents causing delay in payment of the death-cum-retirement gratuity (in short D.C.R.G) and Central Government Employees Group Insurance Scheme(in short C.G.E.G.I.S) money to him who has already retired with effect from 28.02.2002. He has prayed for a direction to be issued to the Respondents to pay to him the D.C.R.G. and C.G.E.G.I.S. money alongwith interest @ 12%

from the date of retirement i.e., 28.02.2002 till the date of payment.

2. The grievance of the Applicant is that he had submitted the pension papers as required under rules to the Respondents before his retirement i.e., before 28.02.02, (after receipt of the order of superannuation on 19.2.02 issued by the Respondent No.3). But the Respondents did not pay his dues on account of gratuity and C.G.E.G.I.S. till the date of filing of this Original Application i.e., 22.11.02. He had approached them several times both personally and through written representations but to no effect. He had even represented to the Hon'ble Minister of Information and Broadcasting by name on 09.09.2002 vide Annexure-A/2 but without any success. It is in these circumstances, he has approached this Tribunal for relief.

3. The Respondents have contested this Original Application mainly on the ground that the Applicant had submitted an application on 16.04.2001 with a request for voluntary retirement with effect from 31.08.2001. However, before any decision could be taken by the Respondent on his application, the Applicant by submitting another application on 31.07.2001 withdrew his earlier request for voluntary retirement on the following ground:-

"With reference to my application on the subject cited above, I could not get any reply till date. If the Directorate's order will be received here at the last moment, it may take a lot of time to settle the pensionary and other terminal benefits which will push me to a greater disturbances.

Hence, I request your goodself to kindly allow me retire on the due date of superannuation on 28.02.2002 and my earlier application for voluntary retirement may be treated as cancelled please."

4. Acceptance of his request for withdrawal of the notice for voluntary retirement was communicated to him on 21.8.01. He then retired on superannuation on 28.02.2002 but did not get all the retiral benefits as stated earlier. It is the case of the Respondents

that four factors have caused delay in settlement of his retirement dues.

5. Firstly, that he had asked for voluntary retirement which he withdrew after 3 months of submission of the earlier application. Secondly, that there were discrepancies in his leave account during the period he was working at All India Radio, Jaypore. Thirdly, that there was discrepancy regarding contribution towards C.G.E.G.I.S. pertaining to the period of his stay at A.I.R. Jaypore and Sambalpur. Finally, that a demand draft for Rs.2,53,297/- was sent to the Station Director, A.I.R., Cuttack, but, the draft ^{not} could be delivered to him due to the fact that it was sent to the Station Director, All India Radio, Cuttack instead of, to Station Director(CBS), All India Radio, Cuttack following the instruction given by the Applicant in his gratuity application form. It was only during November, 2002 when the Station Director, A.I.R., Cuttack, was asked about the disposal of, the demand draft, it was found that the said demand draft had not been received in that office. On receipt of this information, duplicate demand draft was issued on 19.12.2002 after completion of all the formalities. But the payment could not be effected as the Applicant did not receive payment, directly from the Respondent because of the pendency of this Original Application and, preferred to receive the amount through the Registry of this Tribunal. Accordingly, three demand drafts amounting to Rs.6,988/- dt.13.1.03, Rs.2,53,297/- dt.13.5.02, revalidated on 3.1.03 and another amount of Rs.16,966/- dt.24.12.02 were handed over to the Applicant. The Respondents have thus submitted that delay that has occurred in payment is ascribable to ~~the~~ acts of omission and commission on the part of the Applicant as stated earlier.

6. I have heard Mr. Akhay Mishra, learned counsel for the Applicant and Mr. S.B.Jena, learned Addl. Standing Counsel for

the Respondents and have perused the records placed before me.

7. The issue crying for adjudication in this Original Application is whether the Applicant is entitled to payment of interest on account of delay in effecting payment of the retiral benefits like D.C.R.G. and C.G.E.G.I.S. money and if so at what rate of interest. The Applicant has claimed that delay was mainly on account of the inefficiency of the Respondents and therefore he should be compensated for the loss he has sustained on account of delay in obtaining his retirement benefits. In his letter addressed to the Hon'ble Minister of Information and Broadcasting, he has stated that ' I am depending on bank interest as pension amount is not enough for the well do of my family '. The Respondents have on the other hand, put the blame for delay in payment of the D.C.R.G./C.G.E.G.I.S. money on the Applicant. In para-12 of the counter they had stated that certain service period was certified by him as D.D.O. instead of being certified by the head of the Station. It took time to get those particulars verified again. This is what caused delay in payment of his dues with regard to C.G.E.G.I.S. which they could sanction only on 13.12.2002 for payment. Regarding delay in payment of D.C.R.G. of Rs. 2,53,297/- they have submitted that the demand draft for effecting payment of this amount was prepared on 13.5.02 but it could not be paid to him because of its transmission to a wrong addressee, i.e., to the Station Director, A.I.R. Cuttack instead of to the Station Director(CBS), A.I.R., Cuttack, where the Applicant had worked before his retirement. This wrong address was supplied by the Applicant, they submitted. They have admitted that they became aware of the missing demand draft only during December, 2002 and immediately thereafter, they got a duplicate

✓ demand draft issued on 19.12.02. The learned Addl. Standing Counsel urged before me that it is clear from the facts of the case that there was no intention on the part of the Respondents to delay in any way the payment of D.C.R.G. money because they had issued the demand draft within 3 months of his retirement on 20.5.2002. The demand draft was misplaced in transit and that was beyond the control of the Respondent No.2 and No.3. In fact, he submitted, that if the demand draft had travelled to All India Radio, Cuttack instead of to All India Radio (CBS), Cuttack that had happened on account of wrong addressee particulars furnished by the Applicant while applying for payment of D.C.R.G. amount.

8. I have given my anxious thoughts to the rival contentions in answering the issue. I find that the answer to the issue raised by the Applicant and opposed by the Respondents, is already available in the judgement of the Apex Court when their Lordships ordered in case of State of Kerala and Others vrs. M.P. Padmanabhan Nair reported in 1985(L&S) 278 (1985)1 SCC 429 as follows:-

" 1. Pension and gratuity are no longer any bounty to be distributed by the Government 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 of disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment."

9. Law is thus well settled that the responsibility for delay in payment of retirement benefits has to be borne by the employees unless anything to the contrary is proved. Instant case is a glaring instance of culpable delay in settlement of the gratuity and C.G.E.G.I.S. dues to the Applicant who retired on 28.2.2002. Their Lordships in the case of M.P. Padmanabhan Nair have observed that the payment of gratuity should be made to the Govt. servant on the date of retirement or on the following day and the pension of at the expiry of the following month. But in this case,

the Applicant's gratuity money though, the demand draft was prepared on 20.5.02 i.e., $\frac{2}{3}$ months after his retirement, could be handed over to the Applicant on 5.3.03 (It is conceded that this demand draft could have been delivered to the Applicant in January, 2003, had the Applicant not insisted on payment through the Registry). However, his demand draft for C.G.E.G.I.S. dues was prepared only on 24.12.02 i.e., after about 10 months of his retirement. The payment of D.C.R.G. amount was delayed. I have no doubt, due to the inefficiency in the offices of the Respondents. It is unthinkable that no care was taken to ensure correctness of the address before remitting a demand draft worth over Rs. 2.5 lakhs and no watch was kept on its safe delivery and receipt of acknowledgement to that effect. This case brings to fore the need for sprucing up administration by the Respondents. On the other hand, there is no doubt that the Applicant is responsible for the delay in payment of C.G.E.G.I.S. money. In the circumstances, I direct the Respondents to pay interest to the Applicant on the D.C.R.G. amount for nine months from 1st March, 02 to 30th November, 02 @ 9%. However, this amount of penal interest is to be recovered from the concerned officials/Respondents in the office of the P.A.O., Akash Bani Bhawan Kolkata and A.I.R., Cuttack (who sat over the demand draft after its receipt there), after fixing responsibility on each one of them. They shall, however, pay no interest on account of the delay in settlement of C.G.E.G.I.S. money because delay in this case is attributable to the wrong procedure followed by the Applicant when in service. I, however, hope and trust that he has been paid interest on the survival amount upto the month of November, 02 i.e., the month preceding the month when his claim was settled. Thus, this O.A. is allowed to the extent ordered above. No costs.


B. N. SOM
VICE CHAIRMAN