

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

O.A.NO. 1230 of 2002

Cuttack, this the ~~28th~~ day of *October*, 2003

Purna Chandra Barik

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Applicant

Vs.

Union of India and others

.....

Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not/ 150
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? 20


(B.N. SOM)
VICE-CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

O.A.NO. 1230 of 2002

Cuttack, this the 23rd day of October, 2003

CORAM:

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

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- Purna Chandra Barik, son of late Balu Barik, resident of Kaliabara, P.O. Odisha,
Dist. Jagatsinghpur Applicant

Advocate for applicant

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Mr.P.K.Nayak

1. Union of India, represented through the General Manager, South Eastern Railways, Garden Reach, Kolkata 43
2. Financial Advisor and Chief Accounts Officer, South Eastern Railway, Garden Reach, Kolkata 43
3. Deputy Chief Accounts Officer (General)-cum-General Manager (Accounts), South Eastern Railways, Garden Reach, Kolkata 43

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Respondents

Advocate for Respondents

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Mr.R.Ch.Rath.

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ORDER

SHRI B.N.SOM, VICE-CHAIRMAN

This Original Application has been filed by Shri Purna Chandra Barik, a retired employee of the Respondent-Department. By filing this Original Application, the applicant has sought for a direction from the Tribunal to the Respondents to make payment of gratuity and commuted value of pension due to him and to pay interest at market rate for withholding the amount payable to him.

2. The admitted facts of the case are that the applicant, while working under the Respondents in Calcutta, retired on 31.3.1997 as a Senior Record Supplier. Sometime before his retirement, he had taken a loan of Rs.4000/- from a money lender. This amount was not paid back, as a result of which on 3.3.1997 the money lender filed P.O.Nos. 38/97, 124/97, 68/97 and 27/97 before the Small Causes Court, Sealdah, in which orders were passed for recovery of Rs.62,753.80 paise either from his salary or from the retirement benefits payable to him. On receipt of these orders from the Court, Respondent No.3 approached the Court for clarification whether the decree was for recovery of the amount from the retirement benefits, in response to which the Sheristadar of the court of the Assistant District Judge, 24-

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Parganas (S), Sealdah, clarified that the order of attachment was not applicable to the gratuity and the commuted value of pension. The Respondents, immediately on receipt of the attachment orders from the Court, had asked the applicant by their letter dated 17.6.1997 to deposit the amount of Rs.62,753.80 in the Court and to submit clearance memo from the relevant court to enable them to settle his case. Apparently, the applicant had not taken positive action on this communication. In the process, settlement of the retirement benefits of the applicant got delayed.

3. The applicant had earlier come before this Tribunal in O.A.No.776 of 1997 wherein his prayer included payment of all retirement benefits, bonus, leave salary of three months in the year 1996 and interest for delayed payment. This Tribunal, after hearing the matter in details and in all respects, disposed of the same with the following observations:

“5. The applicant served the Department from 26.9.1958 till his superannuation and is, therefore, entitled to retirement benefits under rules. But the Department wants this Bench to decide whether the retirement dues under rules can be paid to the applicant in spite of orders of attachment received from the Courts. We clarify that this Division Bench cannot assume the role of legal advisor of the Department to advise them in the matter and as such cannot offer any opinion, because it is beyond the jurisdiction of this Bench to decide as to the correctness or otherwise of the attachment orders issued by the Courts concerned. This being the position, there is no necessity for us to decide as to whether prayer of the applicant in MA No. 385/2001 for production of some orders said to have been

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received by the Department can be allowed. MA 385/2001 is accordingly disposed of."

Now the grievance of the applicant has been limited to the release of gratuity and commuted value of pension amount. At the admission stage of this Original Application on 6.1.2003, the Respondents were directed to release the gratuity and the commuted value of pension minus Rs.62,753.80 within a period of six weeks.

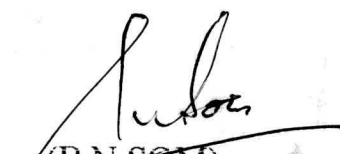
4. The Respondents, by filing counter, have disclosed that they have made payment of all the settlement dues less Rs.62,794/- in compliance with our order dated 6.1.2003. They have also produced the order of payment of the amount, dated 16.7.2003, intimating the applicant regarding final payment of superannuation pension, payment of commuted value of pension, the death-cum-retirement gratuity, and payment of PLB. The Respondents, in their counter, have explained the reasons for the time they have taken in releasing the full pensionary benefits to the applicant, as follows:

"The respondents being not directly party to the execution cases but being custodian of the amounts attached for remittance with small causes court and having been prohibited as per attachment order, had no other alternative but to hold back the amounting question to avoid any uncalled for displeasure and remarks from the small causes court. However, on a goodwill gesture on the part of the railway respondents, they have sought for further clarification from the authorities of small causes court Sealdah vide their letter No.Admn./Bills/012/SK/So01/433 dated 08.07.02 remaining non-replied as yet....."

They have stressed that the applicant being judgment-debtor in the above mentioned cases, it was well within his knowledge that the retirement benefits had been attached by the Small Causes Court and that he should appear before the said Court and get a clear clarification about the attachability of the settlement dues, like his gratuity.

5. There is lot of force in the arguments of the Respondents. It appears that the applicant has not made any appearance before the Court either to contest the orders or to seek clarification, but has preferred to use indirect method to deny his liability. I, therefore, hold that the applicant having been informed about the attachment orders by the Respondents no sooner those were received by them in 1996, should have taken ^{upon} himself the responsibility of complying with the orders of the Small Causes Court at Sealdah which had passed the attachment orders so that the Respondents would release to him the amount of Rs.62,794/- withheld by them in pursuance of the said court orders. I order accordingly.

6. The O.A. is disposed of. No costs.


(B.N. SOM)
VICE-CHAIRMAN

AN/PS