

OA No. 100 of 2008

Soubhagya Ku. Mohanty ..... Applicant  
Versus  
Union of India & Others ..... Respondents

Order dated: 01.04.2010.

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**THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (ADMN.)**

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Applicant claims to be the son and legal heir of Late Kulamani Mohanty, Ex Driver of S.E.Railway, Muri, Adra Division in the District of Purulia, West Bengal. Late Kulamani Mohanty retired on reaching the age of superannuation on 30.06.1980 and expired on 31.08.2005. It is the claim of the applicant that though there was no disciplinary or criminal case pending against his father and that there were no outstanding dues of the railway against him yet the Respondents did not pay the DCRG amount of Rs.2,869.55 although it was sanctioned by the Divisional Accounts Officer S.E.Railway, Adra vide letter No. ADA/Pen/Rev/1895/L110/Bank/BK-11/P-187/590 Adra dated 9.9.1983/20.09.1983. Further claim of the applicant is that the CMTD amount deposited by his father was neither paid to his father during his life time nor to the applicant after the death of his father. As such by filing the present OA, the Applicant claims direction to the Respondents to release the un-disbursed gratuity amount of Rs.2,869.55 and the CMTD amount deposited by his father along with interest within a stipulated period to be fixed by this Tribunal.

2. In spite of adequate opportunities from the date of the order dated 15.2.2008 directing notice and in fact notice having been served on the Respondents no reply has been filed by any of the Respondents except Respondent No.7 stating that since the applicant raised the claim after long lapse of time no record is available with the society to establish that late

Kulamani Mohanty was a member of the society and any such amount is lying with the society to be paid to the ex employee. Besides the above, Respondent No.7 has also questioned the very maintainability of this OA for the CMTD amount as the S.E.Railway Employees' Cooperative Society Ltd is a society registered under the Bengal Cooperative Societies Act and subsequent to thereof under the Multi State Cooperative Societies Act, 1984 and continuing in its operation within the territorial jurisdiction indicated under rule 5 of the By Law of the Society. Accordingly, Respondent No.7 has prayed for dismissal of this OA.

3. This being a case of the year 2008 and no counter has been filed by any official Respondents in spite of adequate opportunities, grant of further time as prayed by Mr. G.Singh, Learned Additional Standing Counsel appearing for Respondent No.1 is rejected. Heard Mr.Mohanty, Learned Counsel appearing for the Applicant, Mr. G.Singh, Learned Additional Standing Counsel appearing for Respondent No.1 and Mr. S.K.Ojha, Learned Standing Counsel appearing for the Respondent No.7 and with their aid and assistance perused the materials placed on record. Learned Counsel for the Applicant has made all endeavour to pursue the maintainability of this OA as against Respondent No.7 for payment of the CMTD amount, I do not find any justifiable reason in any of the arguments advanced by him as this Tribunal lacks jurisdiction to entertain any application against S.E.Railway Employees' Cooperative Society Ltd which is a Society registered under the Bengal Cooperative Societies Act and subsequent to thereof under the Multi State Cooperative Societies Act, 1984. Hence so far as direction for payment of CMTD amount is concerned the same is rejected. However, it was fairly admitted by Mr. Singh Learned ASC appearing for the Respondents that the ex employee was entitled to 2,869.55 towards DCRG amount and has prayed

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for some time to make payment of the same to the Applicant. Learned Counsel for the Applicant has submitted that as delay in payment is attributable to the Respondents, the Applicant is entitled to interest and appropriate direction be issued to the Respondents to pay interest on the said amount for Rs.2,869.55.

But I am not convinced on the argument of the Applicant and hold that ex employee/Applicant is also equally responsible for not being vigilant on the claim.

4. In view of the above, the Respondents are hereby directed to make payment of the DCRG amount of Rs.2, 869.55 of the ex-employee to the Applicant within a period of 30(thirty) days from the date of receipt of this order; failing which the Applicant shall be entitled to interest @ 8% per annum from the date it became due till the actual payment is made.

5. In the result, this OA stands disposed of with the direction given above. No costs.

  
(C.R. MOHAPATRA)  
MEMBER (ADMN.)