

5

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.**

O.A.No. 649 of 2009

Cuttack, this the 20th day of October, 2011

| | | |
|-----------------------|--------|-------------|
| Ashamani Majhi | | Applicant |
| | Versus | |
| Union of India & Ors. | | Respondents |

C O R A M:

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

AND

THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDICIAL)

.....

The Applicant is the wife of Late Duryodhan Majhi who while serving as Assistant Guard in South Eastern Railway (now ECoRly) under KUR Divn was removed from service w.e.f. 12.5.1989 which was subsequently upheld by the Appellate Authority on the appeal preferred by the husband of the Applicant. Thereafter, the Applicant preferred Writ Petition before the Hon'ble High Court of Orissa so also OA before this Tribunal on different aspects with different prayer. This OA has been filed by the Applicant seeking to quash the order under Annexure-A/4 dated 2.5.1989, Annexure-A/6 dated 01.02.2001, Annexure-A/8 dated 13.04.2009 with prayer to direct the Respondents to pay the applicant her husband' service and financial benefits and further to direct the Respondents to fix the pension as her husband died in the meantime.

The order under Annexure-A/4 dated 2.5.1989 is the order of punishment of removal from service, Annexure-A/6

L

dated 1st February, 2001 is the order passed by the General Manager rejecting the petition submitted by Late Majhi and Annexure-A/8 dated 13.4.2009 is an order regretting payment of retirement benefits except his own contribution such as PF&CGEGIS etc but the same was ordered not to be released due to non-vacation of the Government accommodation. Meanwhile the husband of the applicant has died.

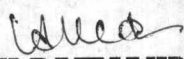
Having considered the rival submissions of the parties, we are not inclined to interfere in the orders at Annexure-A/4, A/6 and A/8 (relating to release of retirement dues) but we are aghast to note that for withholding the PF and CGEGIS of the Applicant's husband on the ground of non-vacation of quarters. The lethargy shown by the authorities in not taking any action according to law to enforce their right to recover possession of the quarters from the applicant or fix liability or determine the so called penal rent after giving prior show cause notice or any opportunity to her before even proceedings to recover the same from the Applicant renders the order under Annexure-A/8 in so far as not releasing the own contribution dues unsustainable. This view is also fortified by the decision of the Hon'ble Apex Court in the case of **Gorakhpur University and Others V Dr. Shitla Prasad**

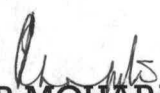
4
3
Nagendra and others, AIR 2001 Supreme Court 2433 in which
it has been held as under:

"Pension and gratuity are no longer matters of any bounty to be distributed by Government but are valuable rights acquired and property in their hands and any delay in settlement and disbursement whereof should be viewed seriously and dealt with severely by imposing penalty in the form of payment of interest. Withholding of quarters allotted, while in service, even after retirement without vacating the same is not a valid ground to withhold the disbursement of the terminal benefits. Such is the position with reference to amounts due towards Provident Fund, which is rendered immune from attachment and deduction or adjustment as against any other dues from the employee."

In view of the above, while dismissing this OA we direct the Respondents to release the GPF and CGEGIS dues in favour of the successors/nominee of the ex employee within a period of 45 days from the date of receipt of copy of this order.

There shall be no order as to costs.


(A.K.PATNAIK)
Member(Judl.)


(C.R.MOHAPATRA)
Member(Admn.)