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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

O.A.No.94 of 2010

Jayaram Dalei .... Applicant

Versus

UOI & Others .... Respondents

Order dated 28<sup>th</sup> June, 2012.

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

And

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

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Facts of the matter are that two disciplinary proceedings under Rule 14 of CCS (CC&A) Rules, 1965; one by issuance of charge sheet dated 23.11.2001 and the other dated 28.11.2005 were initiated against the applicant before his retirement i.e. on 30.11.2005; for which his retirement gratuity was withheld by the Department. However, both the proceedings were unconditionally DROPPED vide order dated 14-08-2009 by the competent authority as is evident from the orders under Annexure-A/2 & A/3 to this OA and consequently, the withheld gratuity was released in his favour on 08.12.2009. Applicant made representation for payment of interest. As the same was not paid, he has approached this Tribunal. By filing counter, Respondents have opposed the prayer of

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the applicant on the ground that withholding of gratuity was not intentional or deliberate but due to pendency of the disciplinary proceedings against him and immediately after conclusion of the disciplinary proceedings the withheld gratuity was released in his favour and as such he is not entitled to any interest as claimed by him in this OA.

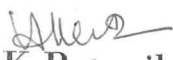
2. Government of India, Dept. of P. & P.W., O.M. No. 7/20/89/P. & P.W. (F), dated the 22nd January, 1991 issued guidelines for payment of interest on the gratuity where release of gratuity is delayed due to pendency of Disciplinary/Judicial proceedings. Relevant portion of the circular issued by the DOP&T is quoted herein below:

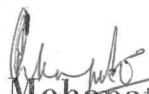
“(i) In case of Government servants against whom disciplinary/judicial proceedings are pending on the date of retirement and in which gratuity is withheld till the conclusion of the proceedings:

(a) In such cases if the Government 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 vide O.M. No. 1 (4)/Pen. Unit/82, dated the 10th January, 1983. If the payment of gratuity has been authorized after three months from the date of his retirement interest may be allowed beyond the period of three months from the date of retirement.”

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3. In the instant case it is not in dispute that the disciplinary proceedings initiated against the applicant were unconditionally dropped by the competent authority vide order under Annexures-A/2 & A/3. Thus, the Applicant is deemed to have been exonerated from all the charges. Therefore, the objection raised by the Respondents in regard to payment of interest on the gratuity shows complete non application of mind being dehors the DOP&T instruction dated 22<sup>nd</sup> January, 1991. Hence after hearing learned Counsel for both sides and upon perusal of the documents, we hold that the applicant is entitled to interest on the gratuity after three months of his normal date of retirement till the actual payment i.e. 08-12-2009. Accordingly, Respondents are hereby directed to calculate and pay interest @ 8% per annum on the gratuity amount within a period of 60(Sixty) days from the date of receipt of copy of this order.

  
(A.K. Patnaik)  
Member (Judicial)

  
(C.R. Mohapatra)  
Member (Admn.)