

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

O.A. No. 381 of 1996

Present : Hon'ble Mr. Justice S.N. Mallick, Vice-Chairman  
Hon'ble Mr. S. Dasgupta, Administrative Member

Y. Dharma Rao, son of Late Y. Adinarayana,  
aged about 64 years, Ex-M.L. Mistry under  
Dy. Controller of Stores, S.E. Railway,  
Kharagpur, residing at C/o. L/66 B1, Unit  
No. 19, P.O. New Settlement, Kharagpur,  
Dist. Midnapore.

..... Applicant

-vs-

1. Union of India, service through the  
General Manager, S.E. Rly., Garden Reach,  
Calcutta - 43 ;
2. The Dy. Controller of Stores, S.E. Rly.,  
Kharagpur.

..... Respondents

For applicant : Mr. A. Chakraborty, counsel

For respondents: Mr. S. Choudhury, counsel

Heard on: 18.6.1998

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Order on : 24.6.1998

O R D E R

S.N. Mallick, VC

In this application, the petitioner's grievance is that he has been unlawfully deprived of statutory interest on the delayed payment of DCRG released on 29.3.95 when his date of superannuation from service was with effect from 31.3.1991.

2. His case is as follows :

While he was in service, a criminal case being G.R. case No. 1374/90 under sections 279 & 304A of the Indian Penal Code, in which he was an accused, was tried by the Judicial Magistrate, Fifth Court, Midnapore and he was convicted by a judgment passed by the said Trial Court on 24.12.93. On appeal, the judgment, order of conviction and sentence were set aside in Criminal Appeal No. 8/94

by the Addl. Sessions Judge, Fifth Court, Midnapore as per judgment dated 27.1.1995. The petitioner was acquitted by the Appeal Court of the criminal charges. Thereafter, as the petitioner superannuated in the meantime, DCRG was released only on 29.3.95 without payment of any interest as provided under the rules contained in Establishment Srl. No.103/91 dated 17.5.91 (Annexure-C). The said circular provides for payment of interest on delayed payment of gratuity due to administrative lapses for no fault of the retiring employees in case of retirement other than superannuation. On the basis of the said circular, the petitioner prayed for payment of interest for delayed payment of D.C.R.G. by filing a representation dated 12.4.95 as per Annexure B. The said representation was rejected by the respondent authorities on the ground that the spirit of instructions contained in the aforesaid circular did not apply to his case and he was not entitled to get any interest towards delayed payment of the D.C.R.G., vide Annexure B/1 dated 3.11.95.

3. In the reply, the respondents have taken the same stand as communicated to the petitioner under letter dt.3.11.95 as per Annexure B/1 in the matter of non-payment of interest on delayed payment of D.C.R.G. It is stated in para-13 of the reply that the payment of interest for delayed payment of D.C.R.G. has not been considered in terms of para-2 of the Estab. Srl No.101/91 being Annexure C to the original application.

4. After hearing the Ld.Counsel appearing for both the parties and after going through the annexures on record, we are of the view that the respondents have taken an absolutely unjust pretext for refusing interest on the delayed payment of D.C.R.G. in terms of the relevant circular dated 17.5.91 as per Annexure C. It is not disputed that the petitioner was convicted by the Trial

Court in the aforesaid criminal case and that the judgment, order of conviction and sentence passed by the Trial Court were set aside in appeal and the petitioner was acquitted. The relevant part of the circular dated 17.5.91(Annexure-C) is quoted below :-

"(1) In case of Railway 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:-

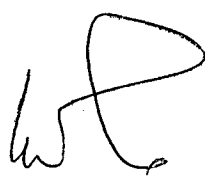
(a) In such cases if the Railway servant is exonerated of all charges and where the gratuity is paid on the conclusion of such proceedings, the payment of gratuity will be deemed to have fallen due on the date following the date of retirement vide Board's letter vide of even number dated 25.5.83. If the payment of gratuity has been authorised after three months from the date of his retirement interest may be allowed beyond the period of three months from the date of retirement. "

In view of the above specific provision of payment of interest, where the payment of gratuity has been authorised after three months from the date of the employee's retirement, we do not find any reason why such interest shall not be allowed by the respondents in favour of the petitioner. In fact, we do not find any reason on the part of the respondents to say that the aforesaid circular is not applicable to the petitioner. The order of rejection of the petitioner's prayer for interest as contained in the impugned letter dated 3.11.95 as per Annexure B/1, is wholly illegal and against the rules. As the petitioner has been acquitted of the criminal charges as per court judgment dt.27.1.95, the payment of gratuity as per above rules will have to be deemed to have been fallen due on the date following the date of the petitioner's retirement, which is 31.3.1991. It is on record that the DCRG could not be released within three months from the date of petitioner's retirement. Under the circumstances, in view of the above rules, interest is to be allowed beyond the period of three months from the date of

retirement. Under the circumstances, we are of the view that the petitioner's prayer should be allowed and he is entitled to get interest @ 12% per annum on the D.C.R.G. amount in terms of the aforesaid circular.

5. The application is, therefore, allowed. The respondents are directed to make payment of interest on the D.C.R.G. amount @ 12% per annum to the petitioner w.e.f. 1.7.1991 till the date of actual payment within 8(eight) weeks from the date of communication of this order.

6. No order is made as to costs.

  
( S. Dasgupta )  
Member(A)

  
( S.N. Mallick )  
Vice-Chairman