

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. 1300 of 1996.

Present : HON'BLE DR. B.C. SARMA, ADMINISTRATIVE MEMBER.  
HON'BLE MR. D. PURKAYASTHA, JUDICIAL MEMBER.

Sri Jyoti Prakash Mallick,  
- retired Loading Inspector,  
Sea-borne Coal Section,  
C.C.S. E. Rly's Office, K.G.

... .. Applicant.

Vrs.

1. Union of India,  
through the General Manager,  
E. Rly, 17, N.S. Road,  
Calcutta-1.
2. Chief Personnel Officer,  
E. Rly, Calcutta-1.
3. Chief Accounts Officer (Pension)  
E. Rly, Calcutta-1.

... .. Respondents.

For applicant : Mr. S.R. Roy, Counsel.

For respondents : Mr. P.K. Arora, Counsel.

Heard on : 8.8.97.

Ordered on : 8.8.97.

O R D E R

B.C.Sarma, AM.

1. This application has been filed with the prayer for a direction to be issued on the railway respondents to grant interest @ 18% per annum on <sup>/the</sup> balance amount of D.C.R.G. and the amount of penal rent which has been refunded to the applicant by the railway respondents.

2. Briefly stated the facts of the case are as follows :-

The applicant, who was functioning under the railway-respondents, at the material time had earlier filed a Writ Petition.

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before the High Court at Calcutta being C.R. No. 7856 (W) of 1981 raising the dispute about fixation of pay on proforma basis to the grade of his absorption and to give him all benefits of promotion and also prayed for issue of a direction on the respondents not to evict him from the quarter which he was occupying. The High Court had passed an Interim Order restraining the respondents from evicting the petitioner from the railway quarter where he was residing till the disposal of the case. Thereafter, the Writ Petition was transferred to this Tribunal and marked as T.A. 16 of 1988 which was disposed of by an Order dated 25.1.1994 in the following terms :-

"In view of what has been stated above, we dispose of this writ petition with the following orders :

The respondents shall make proper fixation of pay of the applicant on proforma basis in the post of Trains Clerk with effect from 20.5.70 and on the basis of such re-fixation, his pay in the next promotional post i.e. Loading Inspector, has to be re-fixed accordingly and all monetary benefits accruing on such re-fixation of pay in the higher post have to be paid to the applicant. On his retirement from service, if the pension and other pensionary benefits are also to be revised on the basis of his re-fixation of pay as ordered above and if he is entitled to get enhanced pension and pensionary benefits like enhanced gratuity, enhanced leave encashment etc. the same have to be paid to him accordingly. All these exercises have to be done and payment made to the applicant within a period of four months from the date of communication of this order."

3. The applicant now contends that the respondents have delayed in making payment of gratuity although he had vacated the railway quarter on 23.4.1994. It is also the contention of the applicant that his two Interim Relief instalments on his pension were stopped by the railway authorities for reasons best known to them. The railway- authorities have also earlier realised penal rent for the occupation of the railway quarter but after the Interim Order was passed and after a letter was issued by the ld. Counsel for the applicant, the railway-respondents had refunded the amount of penal rent realised from the applicant, but no interest has been

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paid thereon. Being aggrieved thereby, the instant application has been filed with the prayer that Interest @ 18% per annum should be given to the applicant with all the money for delayed payment.

4. The case has been opposed by the respondents by filing a reply. The respondents contend that the T.A. was disposed of on 25.1.1994 and, thereafter, the payments were made. Under the Railway rules, unless the railway servant vacates the railway quarter which is to be vacated after retirement, no gratuity can be released. His gratuity was released only after eviction. It is also the stand of the railway respondents that the amount of penal rent, which was realised from the applicant and refunded to him after the receipt of the Advocate's letter, was a mistake and that should not have been done. They have, therefore, prayed for dismissal of the application on the ground of devoid of merit.

5. We have heard the submission of the ld. Counsel for both the parties and perused records. We have also gone through the contents of the Judgement/Order dated 25.1.1994 passed in T.A. No. 16 of 1988. We note that the Interim Order that was passed by the High Court was only about eviction of the applicant from the railway quarter which was occupying. There is no whisper in the Interim Order to the effect whether the railway-respondents shall realise the penal/damage rent for the period of occupation. We note that the applicant had retired on attaining the age of superannuation w.e.f. 1.12.80 and for a period of about 14 years, he was occupying the railway quarter, whatever be the reason therefor. The Judgement was passed in that T.A. on 25.1.1994 and even, thereafter, the applicant had vacated the railway quarter only on 23.4.1994. Whatever that may be, we note that the realisation of penal/damage rent was <sup>only</sup> an issue before the High Court or before the Tribunal and it appears



surprising to us that the railway-respondents had to refund the penal/damage rent which we find that the applicant had paid on his own accord to the railway authorities. We are, therefore, of the view that the applicant is not at all entitled to receive any interest on the amount of refund which the railway-authorities had made to the applicant, as damage rent realised earlier.

6. But we observe that the applicant's two instalments of Interim Relief were stopped for payment by the railway authorities. Even if the applicant was occupying the railway quarter, the railway authorities are not competent to stop the payment of Interim Relief to a pensioner. We are, therefore, of the view that the applicant is legally entitled to receive @ 10% per annum interest on those two instalments of Interim Relief with effect from the date those instalments became due till they were paid.

7. We also find that a sum of Rs. 1575.72 p. on account of balance amount of gratuity was released by the respondents to the applicant only on 8.8.1996 whereas the release of that amount became due immediately on vacation of the railway quarter on 23.4.94 or at least within a period of 3 months thereafter the said amount should have been released. We, however, note that the applicant had got certain benefits which were not directed to <sup>be paid</sup> pay both either by the High Court or by the Tribunal. In view of this, we are not inclined to grant any interest to the applicant on the said amount of gratuity which has been paid by the respondents on 8.8.96.

8. The application is thus disposed of with the above observation and with the direction that the above action shall be taken by the respondents within a period of 3 months from the date of communication of this Order. No costs.

(D. Purkayastha )  
Member (J)

B.C. Sarma )  
Member (A)