

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

MA 402 of 2002
(OA 1366 of 1992)
CPC 42 of 2002

Present : Hon'ble Mr. B.P. Singh, Administrative Member
Hon'ble Mr. N. Prusty, Judicial Member

R.K. Basu

- VS -

S.E. Railway

For the Applicant : Mr. P.B. Mishra, Counsel

For the Respondents: Mr. C.R. Bag, Counsel
Mrs. S. Banerjee, Counsel

Date of Order : 01-08-2002

ORDER

MR. B.P. SINGH, AM

This MA has been filed by making following prayers :

- a) The respondents should be directed ~~not~~ to give effect to the said letter dt. 31.5.2002 as at Annexure 'A'.
- b) The said letter amounts to contempt as it violates the Hon'ble Tribunal's orders dated 16.3.2001 by not ~~paying~~ the amount of Rs.21,649/- along with the balance of DCRG amounting to Rs.10,934/-.
- c) To declare that the G.M., S.E. Railway has no locus standi to pursue the matter to demand and for realisation of penal rent/damage rent etc.
- d) The respondents cannot be above the law of limitation as held by the Hon'ble Tribunal as the claim of the respondents dates back to a period from 1985 to 1990.
- e) The applicant also prays that respondents be directed not to make the demands for market/penal/damage rent with a discriminatory bias as explained in paras 2 and 8 of this application and to hold such demands as illegal and invalid".

2. Out of five prayers made above prayer Nos. c, d & e are not concerned with the order dated 16-3-2001 passed in OA 1366 of 1992

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against which CPC 42 of 2002 has been filed. Therefore, these prayers cannot be made in this M.A. At the most the prayers No. a and b which relate to the said order, can be considered.

3. For proper appreciation of the factual position we would like to reproduce the operative portion of the order dated 16-3-2001 passed in O.A. 1366 of 1992 :

"We have considered the application and written reply and submissions of Ld. Counsel of both the parties. We find that applicant sought for relief in the application by way of direction upon the respondents to make payment of DCRG amount after recovery of the HBA taken by him. In view of the aforesaid circumstances and in view of the judgement relied upon by the Ld. Counsel for the applicant we direct the respondents to make payment of DCRG amount after adjustment of the HBA only and other charges can be recovered from the applicant in accordance with the Rules; not by withholding the DCRG amount. With this observation, application is disposed of and payment of DCRG amount should be made to the applicant within two months from the date of communication of this order. Regarding balance amount applicant would be entitled to get interest at the rate of 12% from the date of retirement till payment is made". (emphasis added by us).

4. From the perusal of the above order it is clear that the Court directed for recovery mainly on two points - the first point relates to balance of HBA and the second point to other charges. So far as recovery of HBA is concerned the Court had directed that the amount should be adjusted against the balance DCRG and after adjustment whatever balance amount would remain that should be paid to the applicant after giving interest at the rate of 12% from the date it became due till the date of actual payment. So far as other recoveries are concerned that should be made in accordance with the Rules.

JNN

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5. Mr. C.R. Bag, Ld. Counsel leading Mrs. S. Banerjee, Ld. Counsel for the alleged contemnors appears in this case. He submits that the balance amount of DCRG after adjustment of HBA advance amounting to Rs.10,934/- has already been paid to the applicant. The Ld. Counsel further submits that as stated in the reply, the interest on the balance amount of Rs.10,934/- was worked out to be Rs.21,649/- upto 31-5-2002 at the rate of 12% per annum. The interest amount has been adjusted against the other recoverable dues which has been worked out to be Rs.1,64,217.65 + electricity charges etc.

6. The Ld. Counsel for the respondents further submitted that recovery of HBA was to be made from the balance of the DCRG amount and of other recoveries in accordance with Rules. In this case the respondent authorities have calculated the accrued interest on the balance of DCRG, but instead of making payment to the applicant they have adjusted the said amount against the other recoveries. We find that the adjustment of interest on balance of DCRG amount towards other charges is definitely against the order quoted above and has been done by wrong interpretation of the order.

7. The above observations were brought to the notice of the Ld. Counsel for the respondents and he also submits that from the interpretation as given above, it is clear that the respondent authorities have not implemented the said order; but the same does not appear to have been done intentionally. The Ld. Counsel submits that in case the Court gives suitable direction, the applicant would be paid the interest on balance of D.C.R.G. ^{amount} within a stipulated period.

8. Accordingly, we are of the view that non-payment of interest which accrued on the balance of the DCRG amount after adjustment of HBA was not made in accordance with the order dated 16-03-2001 passed in O.A. 1366 of 1992. Therefore, the respondent authorities have to pay interest to the applicant not upto the date they have made calculation but till it is paid to the applicant. Since the principle amount of the applicant was also not accepted by the applicant, the respondent authorities are now directed to send cheque of

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balance amount as well as revised amount of interest thereon till the date of actual payment as ordered above within a period of two months from the date of communication of this order.

9. In view of above direction, the CPC is hereby dropped and MA is disposed of.



Member (J)



Member (A)

DKN