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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

Original Application No. 131/2002.

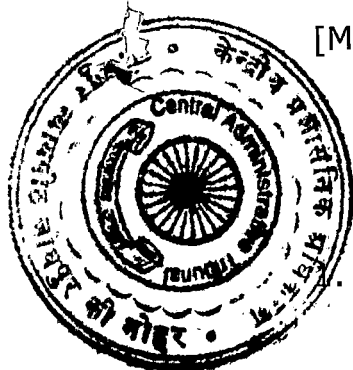
Date of Decision: 28.12.2004

HON'BLE MR. G.R. Patwardhan, Administrative Member

Koshal Prasad Sharma S/o Shri Durga Prasad Sharma, aged 60 years, Resident of Bhanu Bhai Building, Qr. No. 11, near LIC building, Station Road, Jodhpur, retired Section Engineer (Diesel), N.R. Tuglakbad (New Delhi -44)

.....Applicant.

[Mr.Lalit Vyas, Advocate, present for the applicant]



VERSUS

Union of India - Through the General Manager Northern Railway, Baroda House, New Delhi.

2. The Divisional Railway Manager, Northern Railway, Paharganj, New Delhi
3. The F.A & C.A.O, N.R., Baroda House, New Delhi.
4. The Sr. Divisional Accounts Officer, N.R., D.R.M. Office, Pahargang, New Delhi

...Respondents

[Mr. Kamal Dave, Advocate, present for the respondents.]

ORDER

[By the Bench]

O.A. 131/2002 has been preferred by Koshal Prasad Sharma, who admittedly retired after rendering services to the Union of India through the General manager, Northern Railway, Baroda House, and is in receipt of pension. The date of

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retirement being 30.9.2001, the Northern Railway, issued pension payment advice on 1.10.2001. During the period of his service between 1959 to 2001, the applicant went on deputation under an agreement entered into by him with Rail India Technical and Economic Services Ltd., (RITES) and in furtherance thereof was sent to Zimbabwe where he served from September 1981 to October 1983 for about 25 months. A copy of terms and conditions of such service has been annexed as Annex. A/3. M/s RITES seem to have deducted some amount for the period of the applicant's stay in Zimbabwe towards gratuity, which comes to 600 pounds. According to the applicant, this amount was sent by them through a demand draft some time in 1984 vide Annex. A/4.

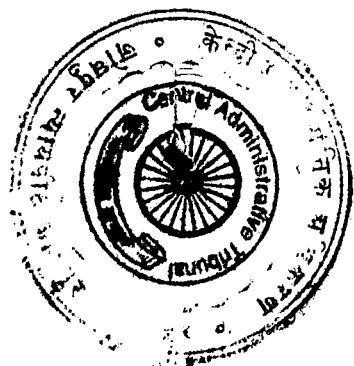
2. It is the grievance of the applicant that although, this amount was deducted towards his gratuity and sent by M/s RITES to Northern Railway, New Delhi, he has somehow not still been paid the same and that respondents be directed to pay the same along with interest and cost.

3. In the O.A. there are only four respondents - Union of India, Divisional Railway Manager, New Delhi, FA & CAO, Northern Railway, New Delhi and the Senior Divisional Accounts Officer, Northern Railway, New Delhi. Some time in January 2004, a Misc. Application 140 of 2003 in this OA for permission

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to implead M/s RITES as a party came up for decision and a Division Bench of this Tribunal rejected the same. Thus, the original respondents' - four in number are only left.

4. Detailed reply has been filed and learned counsels for both the parties have been heard. Following objections have been raised to the maintainability of this application: -



- (a) M/s RITES is an important party to the dispute but, it has not been made a party so the prayer cannot be considered and decided.
- (b) The claim itself is barred by limitation in view of the provisions of Para 2009 of the Establishment Code of Railways.
- (c) The O.A. itself is barred as the claim in respect of the amount said to have been sent in the year 1984 is being agitated in the year 2002. Even if, it is ultimately held that the claim is to be granted then it is only M/s RITES who will have to satisfy the same.
- (d) To their knowledge, the respondents have never received the so-called remittance of the amount.
- (e) The applicant has already been disbursed the retiral benefits on the basis of a maximum service length of 33 years which also includes his period of service with M/s RITES Limited on deputation. Thus, his contribution to RITES and their remittance of the amount to the respondents does not in any way affect the eligibility of the applicant to receive maximum permissible gratuity.

5. The applicant has not disputed about the claim of the respondents that he has received the maximum permissible gratuity. He has not been able to show how a contribution made

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to M/s RITES will be separately payable to him. In any case, it is not under dispute that he went to Zimbabwe while in service of the Indian Railways, the Union of India and thus, his claim for retiral benefits, is basically against the Union of India and the Northern Railway, which has been completely satisfied. That being the case and M/s RITES not being a party to the case, it is difficult to accept that anything more is payable. The application is dismissed with no orders as to cost.



S.R.
28/2/2019

(G.R. Patwardhan)
Admv. Member

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