CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH: JODHPUR.

Original Application Nos. 63/05 and 64/05

Date of decision: 01.03.2006.

Hon'ble Mr. Kuldip Singh, Vice Chairman.

Bheru Lal, S/o Sh Jagan Nath Ji, aged about 70 years, r/o near Fateh Sagar Otta, in front of House of Sh Dau Lal Ji Bhati, Jodhpur, (Rajasthan) Ex. Goods Train Driver, North Western Railway, Jodhpur (Rajasthan).

: **Applicant in O.A. No. 63/2005**

Inder Lal, S/o Ganesh Ji aged about 70 years, r/o House No. 92, in front of Shiva Temple, Ratanada, Jodhpur (Rajasthan), ex-mail train Driver, North Western Railway, Jodhpur (Rajasthan).

: **Applicant in O.A. No. 64/2005**

rep. By Mr. S.K. Malik &
Mr. Dayaram: : Counsel for the applicants in both the O.As.

VERSUS

1. Union of India through the General Manager, North Western Railway, Jaipur, (Rajasthan)
2. Divisional Railway Manager, North Western Railway Jodhpur, Jodhpur, (Rajasthan)
3. Senior Divisional Personnel Officer, North Western Railway, Jodhpur Division, Jodhpur (Rajasthan).

: Respondents in both the OAs.

Rep by Mr. Salil Trivedi : Counsel for the respondents in both The O.As.

ORDER

Per Mr. Kuldip Singh, Vice Chairman.

As the issue involved and the relief claimed in both the OAs are similar, both the OAs are heard together and are being disposed of by this common order.

2. The facts in brief are that Shri Bheru Lal, applicant in O.A. No. 63/2005, was working as Goods Driver in Jodhpur Division and Shri Inder Lal, applicant in O.A. No. 64/2005 was working on the post of Mail/Express Driver in Jodhpur Division. An accident took place on 05.11.1991. A criminal case No. 207/1992 was instituted against both the applicants before the ACJM (Railway) Jaipur, on the basis of FIR. They were also served with a copy of charge sheet for major penalty regarding the same incident. Both the applicants were placed under suspension. While the criminal case was going on, both the applicants had also filed separate applications seeking voluntary retirement. Shri Bheru Lal was allowed to retire voluntarily with effect from 16.04.92 and Shri Inder Lal was allowed to retire voluntarily with effect from 26.03.92. As their applications for voluntary retirement had been accepted both the applicants were paid provisional pension. Since the other retrial benefits were not released, both the applicants have approached this Tribunal by filing applications and this Tribunal disposed of the applications. The respondents were directed to release half of the amount of Death Cum Retirement Gratuity (DCRG for short) on executing an indemnity bond with two sureties to the effect that the applicant will refund the amount to the respondents in the event of their being convicted by the Criminal Court and the President's order to recover the amount of gratuity that may be paid to them. The respondents were further directed to release the leave encashment due to them under the rules and the payments shall be made within four months from the date of

receipt of copy of the orders in the OAs and no interest is allowed to be paid on these amounts. Accordingly the half of the gratuity amount was released to them and both the applicants were also acquitted in the criminal case under FIR 207/92 vide dated 01.08.2003. However, the disciplinary proceedings initiated against the applicants vide charge sheet dated 13.11.91 remain pending till 06.08.2004. The charge sheet was cancelled vide order dated 06.08.2004. The respondents issued another order dated 24.09.2004, treating the suspended period from 11.11.91 to 16.04.92 in respect Shri Bheru Lal, as the period spent on duty and in respect of Shri Inder Lal, the suspended period from 11.11.91 to 26.03.92 as the period spent on duty. Their grievances is that thereafter the balance amount of DCRG was not released to them in time. Both the applicant alleges that after the order of this Tribunal in their cases, only a part amount was paid on 16.05.96. The further grievance of the applicants is that even though the charge sheet was cancelled and the period of suspension was treated as on duty, the remaining amount was not paid. Both the applicants prayed that the respondents be directed to release the balance amount of the gratuity and they may be paid interest at the rate of 13% per annum as per the details given below:

Shri Bheru Lal- Applicant in O.A. No. 63/2005

On full amount of gratuity: from 17.04.92 to 16.05.96
On balance amount of gratuity: from 17.05.96 to 04.12.2004

Shri Inder Lal- Applicant in O.A. No. 64/2005

On full amount of gratuity: from 27.03.92 to 16.05.96
On balance amount of gratuity: 17.05.96 to 07.12.2004

3. The respondents are contesting the O.A by filing a detailed reply. The respondents in their reply submitted that in compliance of the order of this Tribunal, they have paid half of the DCRG and full amount of leave encashment to the applicants. As far as the acquittal is concerned, both the applicants were acquitted by giving benefit of doubt and the charge sheet remained pending. However, subsequently, the department in its wisdom thought it proper not to proceed with the disciplinary case further and it cancelled the charge sheet. The remaining amount of DCRG to the tune of Rs. 13,471/- in respect of Shri Bheru Lal and Rs. 16,012/- in respect of Inder Lal was released after deducting the excess payment of pay and allowances paid to Shri Bheru Lal, for the period from 17.04.92 to 07.08.92 and to Shri Inder Lal, for the period from 26.03.92 to 07.08.92 respectively, since both of them were allowed to retire voluntarily from 16.04.92 and 25.03.92, respectively. The commutation of pension was also released and these amounts have been paid on 15.10.2004 and 07.12.2004 respectively and as such no amount is pending to be paid to the applicants. Hence it is submitted that the respondents are not liable to pay an interest. It is stated by the counsel for the applicants that in the case of Shri Inder Lal the cheque was released to him on 10.01.2006, which is not within reasonable time and in the case of Bheru lal it is stated by the learned counsel for the respondents that the cheque was prepared in favour of Shri Bheru Lal but he has not come and collect it. But no explanation is forth coming as why the cheque remained with the cashier and why it was not sent to his last known address.

4. I have heard the learned counsel for the parties and gone the records and pleadings of this case very carefully. As regards the payment of retiral benefits to a government servant is concerned it is settled law that the retiral benefits should be paid to a government servant immediately after his retirement and with regard to payment of gratuity, a reasonable time of three months is given. The relevant Railway Services (Pension) Rules 1993 reads as under:

87. Interest on delayed payment of gratuity

(1) If the payment of gratuity has been authorized after three months from the date when its payment became due on superannuation and it is clearly established that the delay in payment was attributable to administrative lapse, interest at such rate as may be specified from time to time by the Central Government in this behalf on the amount of gratuity in respect of the period beyond three months shall be paid.

Provided that the delay in the payment was not caused on account of failure on the part of the railway servant to comply with the procedure laid down in this chapter.

5. Now the question arises for consideration is as to what is the date for release of gratuity in these two cases. Though the applicants were allowed to retire voluntarily with effect from the dates they had asked for. This Tribunal had held in its earlier order in the applications filed by the applicants that they are not entitled for interest on the amounts so released as per the orders of this Tribunal. Further, the charge sheet was pending till 06.08.2004, on which date the major penalty charge sheet was cancelled. It is also seen that the competent authority had issued the order only on 24.09.2004 for treating the period of suspension as spent on duty. Thus it is clear that the applicants are entitled to get interest on the balance amount of gratuity only from 25.09.2004 till date of actual payment of balance

amount of gratuity. However, the applicants are not entitled to get any interest on the amount pertaining to leave encashment. But for the purpose of calculating the interest on DCRG a further period of three months is allowed as per the rules.(Rules 87 supra).

6. In view of the above discussion both the OAs are disposed of. The respondents are directed to pay interest at the rate of 9% per annum on the balance amount of gratuity from 25.12.2004 to till the date of actual payment. No costs.

sd/-
(Kuldip Singh)
Vice-Chairman

CERTIFIED TRUE COPY
Dated 06.3.2006

अनुभाग अधिकारी (न्याय.)
Section Officer (Judl.)
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
जोधपुर न्यायपीठ जोधपुर
Jodhpur Bench Jodhpur.

Part II and III destroyed in my presence on 04-4-14 under the supervision of section officer ( ) as per order dated 31/1/14

Section officer (Record)
4/4/14