

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. No. 1162 of 1997.

Present : HON'BLE DR. B.C. SARMA, ADMINISTRATIVE MEMBER.

HON'BLE MR. D. PURKAYASTHA, JUDICIAL MEMBER.

Tarunsankar Paul
S/o Lt. Krishnadas Paul,
Ex-Demonstrator of the
C.L.W/School, Chittaranjan.

... Applicant.

Vrs.

Union of India & Ors. (CLW)

For applicant : Mr. B. Chatterjee, Counsel leading
Ms. B. Mondal, Counsel.

For respondents : Mrs. U. Bhattacharjee, Counsel.

Heard on : 22.1.98;

Ordered on : 22.1.98.

O R D E R

④ B.C.Sarma, AM.

1. This application has been filed by the applicant with the prayer that a direction be issued on the respondents to relieve the D.C.R.G amount amounting to Rs. 20,334/- which has been withheld /without by them/assigning any reason.

2. When admission hearing of the matter was taken up today, Mrs. Bhattacharjee, 1d. Counsel for the respondents submits that the applicant had earlier filed an O.A bearing No. 488 of 1996, which was disposed of by an Order dated 22.11.96. In that Order, the following direction was given :-

"In view of the above the application in respect of the prayer 8(a) which was only pursued is allowed. The respondents are directed not to recover the overpayments made to the applicants as a result of wrong fixation of pay through the application of Rule 2018(b) of R-II. The parties to bear their own costs."

Contd.. P/2.

3. Mrs. Bhattacharjee submits that the CLW authorities had filed an SLP against the said judgment before the Hon'ble Apex Court which was disposed of by an order/judgment dated 28.11.1997 and, thereafter, they had issued order dated 14.1.1998 to the effect that the DCRG amount amounting to Rs.20,334/- which was withheld earlier has been released and, accordingly, action is being taken.

4. We have considered the submissions made by the 1d.counsel for both the parties and perused the record.

5. The original record of O.A.488 of 1996 has also been perused by us. There is no doubt that the applicant is one of the parties there in that original application, being applicant no.2, but we find that the substantive prayer made therein is entirely different from the one made in this application. In that case, namely, O.A.488 of 1996, 26 Teachers of CLW Chittaranjan, had jointly raised the grievance and prayed for the relief that a declaration be issued to the effect that the respondents have no right or authority to take any step whatsoever of any nature to recover any amount drawn as alleged excess on refixation in terms of annexures 'A' series appended to the application. The prayer made in this application is for issue of a direction upon the respondents for release of gratuity. Therefore, this prayer does not have any nexus with the prayer made in O.A.488 of 1996.

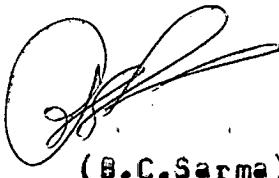
6. We, however, find that even after the passing of our order dated 22.11.1996 in O.A.488 of 1996, the respondents went on to recover the balance due as per their calculation from the gratuity ^{not only} of the applicant. We find that there has been inaction on their part and thereby not implementing our order, ^{if} thereby, positive action has been taken contrary to our order.

7. Mrs. Uma Bhattacharyya, 1d.counsel appearing for the respondents submits that an SLP was filed against our order dated 22.11.1996 in O.A.488 of 1996 before the Hon'ble Apex Court and that is why this recovery was made. There is no order produced before us of the Hon'ble Apex Court to the effect that the order dated 22.11.1996 against which SLP was filed was ever stayed by the Hon'ble Court. Merely filing of a SLP does not mean that the direction given in

Our order should not be implemented. This has been made clear by us on many occasions. This is a case of contempt of court. However, we do not intend to proceed in the matter, but we direct because there was inaction to pay the gratuity amount and also because of their positive act for adjustment of gratuity even after our order dated 22.11.1996, ^{that} the respondents shall pay interest to the applicant @ 10% p.a. from the date immediately after the expiry of 6 months from the date of communication of our order dated 22.11.1996 to the actual date of payment for gratuity amount in so far as the part of gratuity recovered as balance is concerned.

8. So far as the release of entire amount of gratuity is concerned, we find that this should have been released immediately on retirement of the applicant or at least within the period of three months from the date of his retirement. This has not been done. The respondents have not been able to establish that the delay on payment of gratuity is on account of the applicant. Therefore, in our view the applicant is entitled to receive interest also on the entire amount of gratuity less the amount recovered. Accordingly, we direct the respondents to pay interest @ 10% p.a. on the said amount (i.e. the entire amount of gratuity less the amount recovered) to the applicant from the date immediately after the expiry of three months from the date of ^{his} retirement to the date of actual payment and such interest shall be paid within a period of two months from the date of communication of this order, failing which the respondents shall pay interest @ 20% p.a. from the date of expiry of the period of said two months. Application is disposed of accordingly. No order is passed as regards costs.


(D.Purkayastha)
Judicial Member


(B.C.Sarma)
Administrative Member