

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.515/2006

Tuesday the 10th day of April, 2007

CORAM:

HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER

P.Kamalam,
W/o.Late P.Periasamy,
Ex Chief Signal Inspection/Special/Signal &
Telecommunication/Salem),
Residing at:Solakani Ammankoil Arch,
Tiruchirappalli-621 007. ... Applicant

By Advocate Mr.T.C.G.Swamy

V/s.

- 1 Union of India Represented by
The General Manager,
Southern Railway,
Head Quarters Office,
Park Town P.O., Chennai – 3.
- 2 The General manager,
EXPOTECH Division,
(Rail India Technical &
Economic Services Ltd.), No.C-4/16,
Safdarjung Development Area,
New Delhi-110 016.
- 3 Divisional Personnel Officer,
Southern Railway,
Tiruchirappalli Division,
Tiruchirappalli.
- 4 The Senior Divisional Accounts Officer,
Southern Railway,
Tiruchirappalli Division,
Tiruchirappalli.
- 5 The Senior Divisional Personnel Officer,
Southern Railway,
Palghat Division, Palghat. ... Respondents

By Advocate Mr.Thomas Mathew Nellimoottil

This Original Application having been heard on 10th April, 2007, the
Tribunal delivered the following:-

ORDER

Hon'ble Mr. George Paracken, Judicial Member

1 The applicant is the widow of late Shri P Periasamy, who passed away due to an accident on duty on 28/5/1996 while he was working as a Chief Signal Inspector/Special/Signal and Telecommunication/Salem of Palghat Division of Southern Railway. While settling his retirement dues, the respondents have withheld an amount of Rs.10,000/- from the DCRG towards 'anticipated debts'. The applicant submitted that the said withholding of the DCRG was arbitrary, illegal, contrary to law and unconstitutional. The applicant has, therefore, prayed for the release of the withheld gratuity with interest at the rate as applicable to delayed payment of gratuity under Rule 87 of the Railway Service (Pension) Rules, 1993 to be calculated from 1/1/1997 till the date of full and final settlement of the same.

2 During the pendency of this OA, the respondents have reconciled the accounts and found that the payment of Foreign Service Contribution Charges (FSC for short) in respect of the applicant amounting to Rs.10,939/- was already remitted to the RITES vide two cheques dated 25/4/89 and 31/3/90. The respondents have also vide Annexure R-2 letter dated 2/11/2006 directed the applicant to submit the LA and HR forms duly filled in so as to arrange the payment at the earliest. The applicant's counsel in his rejoinder has submitted that the requisite forms have since been submitted to the respondents in November, 2006 but no payment has been made so far. .

3 I have heard Mr.T.C.G.Swamy and Mr.Thomas Mathew

Nellimoottil on behalf of the applicant and respondents respectively.

4 The issue is withholding of a part of amount due to applicant from the amount of DCRG due to her husband at the time of superannuation. The reason for such withholding was against the anticipated debts which could have arisen against the applicant's husband on account of FSC. The respondents themselves have admitted that the requisite amount has already been accounted for in 1989/1990 itself. The applicant's husband died while in service in 1996. If due care was taken by respondents in reconciling the amount received from the RITES, in respect of the applicant's husband and other similarly placed persons, this problem would not have arisen. Ultimately, the sufferer was the applicant. Hence, in my considered opinion, the respondents cannot wash off their hands from paying the interest for the withheld gratuity.

5 I therefore direct respondents to pay the interest at the rate as applicable to delayed payment of gratuity under Rule 87 of the Railway Service (Pension) Rules, 1993 to the applicant for the amount of Rs.10,000/- withheld to be calculated from 1/1/1997 till the date of full and final payment within one month from the date of receipt of the copy of this order, if the payment has not already been made.

6 With the above direction, the OA is disposed of. There shall be no order as to costs.

GEORGE PARACKEN
JUDICIAL MEMBER

abp