

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

Contempt Petition no. 24 of 2004

In re.

Original Application No. 5 of 1996

This the 14th day of September, 2011

**Hon'ble Mr. Justice Alok Kumar Singh , Member-J
Hon'ble Mr. S.P. Singh, Member-A**

Radhey Shyam Gupta, Aged about 67 years, S/o late Sri Kripa Dayal Gupta, R/o C-99 Sector A, Mahanagar, Lucknow.

.....Applicant

By Advocate : In person

Versus.

1. Ms. Radhika Dorariswamy, DG. Posts, New Delhi.
2. Sri R.S. Nagraja Murti, Member (P), Postal Services Board, Dak Bhawan, New Delhi.
3. Col. Kamlesh Chandra, Chief Postmaster General, U.P. Lucknow.

.....Respondents

By Advocate : Sri S.P. Singh for Sri R. Mishra

O R D E R (Oral)

By Justice Alok K Singh, Member-J

Heard the applicant who is present in person and learned counsel for the respondents at length for about an hour. This Contempt petition is being disposed of in the following manner:

2. O.A. no. 5 of 1996 was allowed on 2.9.2003 quashing the disciplinary proceedings entitling all consequential benefits relating to unpaid retiral dues of the applicant. Concededly, the Writ petition filed by the respondents against the order of this Tribunal was dismissed.
3. This Contempt petition was filed on 25.3.2004. In this case, one compliance affidavit dated 3.3.2011 followed by two additional compliance reports dated 30.4.2011 and 19.5.2011.

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have been filed by Col. Kamlesh Chandra, Chief Postmaster General, U.P. Circle, Lucknow-respondent no.3. From the other side, the applicant has filed two objections including the objection which has been taken on record today. According to the applicant, the following compliance are still required to be made:

(i) The payment of retiral dues of arrears of salary after working out the pay scale of STS. From the other side, it is said that the O.A. was allowed only in respect of retiral benefits. It is also informed that there was no regular promotion of the applicant and due to this reason also, he was not entitled to the pay-scale available to STS. It is also said that it being outside the ambit of this Contempt petition, the applicant may file separate O.A. if he is so advised. We are also of the opinion that this relief cannot be granted under this Contempt petition.

(ii) Secondly, it is said that one cheque amounting to Rs. 22943/- dated 17.1.1996 was received by the applicant after about eight months of its issuance, on account of which it could not be encashed. According to the respondents, the aforesaid cheque was received by the applicant on 11.5.1996 itself. The applicant has not disclosed the exact date of alleged receiving after about 08 months. Similarly, according to the applicant, another cheque for Rs. 6658/- dated 27.1.1996 in respect of arrears of DA was also received by him after about 08 months. According to the respondents, it was re-issued on 15.12.1997 which was received by the applicant on 20.4.1998. In this respect also, the applicant is not able to disclose the exact date of his alleged receiving after about 08 months.

Though the applicant has not disclosed the exact date of alleged receiving, but in the interest of justice, it appears expedient to provide that he may submit the original cheques in his possession alongwith an affidavit to the respondents requesting for re-issuance of both the cheques and the respondents, after ascertaining it from the Bank concerned regarding non-payment may issue fresh cheques in favour of the applicant so that he may receive the payment, in question, if not already received.

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(iii) Thirdly, it is said that the interest has not been paid on the amount of gratuity as provided under Rule 68 of CCS (Pension) Rules, 1972. The applicant retired on 31.1.1996. He is claiming interest w.e.f. 1.2.1996. The respondents have paid interest w.e.f. 1.5.1996. Therefore, the dispute in respect of interest is only in respect of 03 months. According to the respondents, a normal period of three months is required for making such payments. The applicant fairly concedes this, but says that this period of three months can be availed in normal circumstance where the payments are made in time. But in the present case, the relevant order has been issued in the month of December, 2010. Infact, the matter was under litigation and it went upto Hon'ble High Court from where it was finally decided in March, 2010. Naturally, it was, only after this litigation, attained finality that the matter was taken up and orders were passed in the month of December, 2010. Nevertheless, due care has already been taken to give interest w.e.f. 1.5.1996 i.e. immediately after expiry of the period of three months from the date of superannuation. At the cost of repetition, it may be recapitulated that it was not a normal case because rightly or wrongly the chargesheet was served upon the applicant for alleged misconduct. It was another matter that the same was quashed by the appropriate judicial forum. Therefore, there does not appear to be any justification for a finding that there is non-compliance in respect of non-payment of interest for three months immediately after the retirement. This point is decided accordingly.

(iv) Fourthly, the applicant has also argued that his pension was commuted to the extent of 40% in the year 1996 and the same has to be restored after completion of 15 years in 2011, but the same has not been restored. This is again outside the ambit of this Contempt petition for which he may get his grievance redressed by filing another O.A. if he is so advised.

(v) Lastly, it is said that the interest has not been paid in respect of leave encashment. It is also brought to the notice that leave encashment has been paid twice. In respect of initial payment of an amount of Rs. 77000/-, concededly, there is

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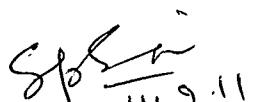
delay of about nine months for which there does not appear to be any plausible explanation from the other side. Even if three months normal period is excluded, there is no justification atleast for the delay of late payment by six months. Therefore, we are of the opinion that the applicant should get normal rate of interest @ 8% per annum (which is normally applicable in the case of Provident Fund) for a period of six months on this count incase the amount of interest has not been included in the amount of Rs. 77000/-

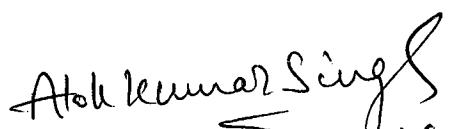
As far as second amount of Rs. 17160/- is concerned, concededly, the pay commission report came into effect from October, 1997 as told by the applicant himself; whereas the O.A. itself was filed in the year 1996. Therefore, this cannot be construed to be within ambit of O.A. and this contempt.

4. Finally, therefore, this CCP stands disposed of with the following directions:

- (i) The applicant may submit the original cheques in his possession alongwith an affidavit to the respondents requesting for re-issuance of both cheques and the respondents after ascertaining it from the Bank concerned regarding non-payment, shall issue fresh cheques in favour of the applicant so that he may receive the payment, in question, if the payment not already received.
- (ii) The applicant shall also get the interest @ 8% per annum (which is normally applicable in the case of Provident Fund) for a period of six months on account of first delayed payment of encashment of leave, incase the amount of interest has not been included in the above amount of Rs. 77000/-.

Notices issued to the respondents are discharged.


(S.P. Singh)
Member-A


(Justice Alok K Singh)
Member-J