

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH, LUCKNOW

Original Application No. 353/2011

This, the 2nd day of February, 2012

Hon'ble Mr. Justice Alok Kumar Singh, Member (J)

Smt. Vimila wife of late Shri Banney , Tech. Helper died in harness, then posted at Geophysics Division, Geological Survey of India, Northern Region, Lucknow ,Sector E, Aliganj, Lucknow, resident of 14 D, Gokhale Marg, Dr. Dubey Ka Hata, beside Kalyan Bhawan, Prayag Road, Lucknow.

Applicant

By Advocate: Sri K.K.Srivastava

Versus

1. Union of India represented through its Secretary to the Govt. of India, Ministry of Mines, Department of Mines, Shasthi Bhawan, New Delhi.
2. The Director General , Geological Survey of India, 27, J.L. Nehru Road, Kolkatta-16.
3. The Dy. Director General, Geological Survey of India, Northern Region, Sector E, Aliganj, Lucknow.
4. Shri Laxman Singh Jain, son of unknown, Dy. Director General , Geological Survey of India, Northern Region, Sector E, Aliganj, lucknow.
5. Shri Sumant Gupta, son of unknown, the then Dy. Director General, Geological Survey of India, Northern Region, Sector E, Aliganj, Lucknow c/o the Director General, GSI, 27, J.L. Nehru Road, Kolkatta-16.
6. Sri Anil Kumar Singh son of late Sri Gopal Singh, Geophysicist, the then Drawing and Disbursing Officer, Geophysics Division, GSI, Northern Region, Sector E, Aliganj, Lucknow and the Secretary, GSI salaried employees Credit Cooperative Society, Northern Region, Sector E, Aliganj, Lucknow c/o the Director General , GSI, 27, J.L. Nehru Road, Kolkatta-16.
7. The Sr. Pay and Accounts Officer, Geological Survey of India, Northern Region, Pay and Accounts Office, Sector E, Aliganj, Lucknow.

Respondents

By Advocate: Sri S.P.Singh for respondents No.1,2 3 and 7.

(Reserved on 17.2.2012)

ORDER

By Hon'ble Mr. Justice Alok Kumar Singh , Member (J)

This O.A. has been filed for directing the opposite parties to pay full amount of death-cum- gratuity as payable under Rules to her along with interest @ 18% and also directing the opposite parties to

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issue letter of pay fixation of her husband with effect from 1.1.2006 as a result of the VIth Pay Commission's recommendation and to pay the relevant arrears. Besides, cost of this application to the tune of Rs. 15,000/- has also been sought.

2. The facts in brevity are that according to applicant, all the payments including family pension and its revision after VIth Pay Commission has been grossly delayed and payment of gratuity has been withheld on the pretext of the some alleged fake loan taken by the applicant's husband from cooperative society of Geological Survey of India, NR, Lucknow. It is further said that a letter has been issued by O.P. No. 7 showing revised gratuity amount of Rs. 3,64,749/- while it wrongly states that an amount of Rs. 2,98,023/- has already been paid. The applicant, therefore, made several representations but nothing happened. Then she made a request to office bearers of Geological Survey of India Employees Navchetna Association, Lucknow to help and intervene in the matter, who requested the opposite party No. 3 to do the needful by writing a letter (Annexure A-7). In this background, opposite party No. 6 called the applicant along with her brother Sri Munna to come and collect the gratuity cheque but he cheated and nothing was given to her. But he got the applicant to sign on some blank papers after misrepresenting the fact about the promised payment of gratuity. Hence this O.A. was filed on 25.8.2011.

3. The official respondents contested the claim of the applicant by filing a Counter Reply saying that amount of gratuity to the tune of Rs. 2,82,755/- was received by the applicant on 23.9.2010 vide cheque No. A096545. The photo copy of receipt of cheque has also been annexed as Annexure No.1. It is further said that due to non vacation of Govt. accommodation by the applicant herself, the payment was delayed. However, the entire payment has already been made to the applicant and the revised gratuity was calculated in a

tunc of Rs. 3,64,749/- and after deducting Rs.2,98,023/-, the balance amount of Rs. 66,276/- was credited to the bank account of the applicant directly. As per recommendation of VIth Pay Commission, the pension of the husband of the applicant has already been revised along with gratuity as well as leave encashment in a tunc of Rs. 66,726/- and Rs. 2921/- respectively which has already been paid to the applicant.

4. The applicant filed a Supplementary Affidavit to the effect that Regional Office of UCO Bank Lucknow in reply to her RTI application has informed that no such payment through said cheque of the respondents has been made (Annexure S-3).

5. A supplementary RA. has also been filed reiterating the pleadings of the O.A.

6. A Supplementary C.A. has also been filed saying that Drawing and Disbursing Officer of the Department has sent a letter dated 10.1.2012 indicating the payment received by the deponent in a tunc of Rs.22,972/- on 13.9.2007, R. 1,50,000/- on 22.11.2007, Rs. 13,526/- on 27.10.2008 , Rs. 2921/- on 26.5.2009 and Rs. 2,82,755/- on 16.9.2010 (The date appended below the signature of the applicant on Revenue Stamp appears to be 23.9.2010 whereas the date of the cheque is 16.9.2010). The photo copy of the receipt of the aforesaid amount have been also enclosed.

7. A Supplementary Rejoinder Reply has also been filed on behalf of the applicant on 17.2.2012, reiterating that amount of Rs.2,82,755/- has never been paid and no such cheque has been ever handed over to the applicant. Otherwise, she would not have kept the same under her pillow and dying for want of proper food and medicine. The information under the RTI from UCO Bank also proves that no such cheque was encashed.

8. I have heard the learned counsel for the parties at length and perused the entire material on record.

[Signature]

9. At the outset, it was agreed by the learned counsel appearing for both the sides that only point left for adjudication is in respect of payment of aforesaid gratuity amount of Rs., 2,82,755/-. The rest of the payment have been concededly made in favour of the applicant. As far as, this amount is concerned, it appears that cheque No. A 906545 dated 16.9.200 for Rs. 2,82,755/- was prepared and handed over and in lieu thereof, signature of the applicant was obtained on a revenue stamp on 23.9.2010. A photo stat copy of this receipt has been enclosed along with C.A. Again, along with Supple. CA., another photo copy of the same receipt has been filed. In one of the affidavits on behalf of the applicant, it has been wrongly said that earlier a photo stat copy was filed by the respondents showing signature of the applicant without any revenue stamp and subsequently a receipt has been filed showing her signature on revenue stamp. This wrong averment appears to have been made probably because both the papers were not checked thoroughly. Similarly, signature of the applicant on the above receipt have also been denied. This denial again appears to be wrong because if this signature is compared and tallied with the signature made on each page of the O.A. and other applications and affidavits of the applicant, then it appears to be signature of the same person. Not only this, if her signatures in respect of receiving other retrieval benefits as contained in several papers in Annexure SCR-2 are compared, then also this signature appears to be of same person (lady) and there is no denial on behalf of the applicant that she has not received other retrieval benefits and has not signed these papers in lieu of receipt of those payments.

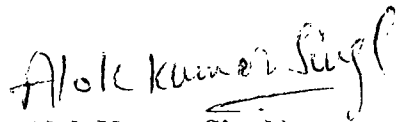
10. From several medical papers on record, it appears that the lady applicant is suffering from certain ailments from a considerable period of time. From her own pleadings, it appears that initially her real brother, Munna, was called along with her to come and collect

the gratuity cheque and she was also asked to sign on some blank paper but she got nothing.. This averment itself speaks everything. It appears that probably her own real brother has betrayed her or some misunderstanding crept in. That is why, during the entire pendency of this O.A. for about 5-6 months, her real brother never came before this Tribunal. Instead one daughter of the applicant had been attending the Tribunal as parokar on the fixed dates. Some queries were also made from her to ascertain the actual position and on the basis of her responses, it appears that she and her mother are presently not happy with Sri Munna, the brother of the applicant and maternal uncle of girl who is doing her graduation. Be that as it may. This Tribunal is not required to go further deep into that matter. Coming back to the point of non-payment of the aforesaid amount, on the basis of information obtained under RTI Act, filed by the applicant, it appears that payment of the aforesaid cheque No. A906545 has not been made from the Bank till date. Probably the cheque in question was never presented on the Bank Counter for payment. This cheque is dated 16.9.2010 and even its life has now expired. It appears that either that cheque was intentionally not handed over to the lady by her own real brother or it might have been inadvertently misplaced or lost. But fact of the matter is that the lady did not encash this cheque for the last about more than a year. Possibility cannot be ruled out that probably her own real brother or some of her parokar contributed towards this delay for which respondents cannot be held responsible in the absence of any material on record. The respondents had prepared the cheque way back in the month of September, 2010 and it was also handed over on 23.9.2010, after obtaining signature of the applicant. Therefore, they cannot be asked to pay interest on account of the delayed payment.

11. Having regard to the aforesaid peculiar facts and circumstances of this case, this O.A. is partly allowed. The official

AC

respondents are directed to draw and issue a new cheque in favour of the applicant of an amount of Rs. 2,82,755/- within 10 days of filing of a simple indemnity bond by the applicant to the effect that if it is found that the payment of amount in question has already been received by the applicant earlier, then the same shall be returned to the official respondents. No order as to costs.


(Justice Alok Kumar Singh) 24.2.12
Member (J)

HLS/-