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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 970 of 1990

Mahesh Narayan Nigam . . . . . Applicant

Versus

Union of India & Others . . . . . Respondents

Hon'ble Mr. Justice U.C.Srivastava, V.C.

The applicant has approached this tribunal praying that a direction in the nature of mandamus commanding the respondents may be issued to release the balance amount of gratuity i.e. Rs. 2223.20 together with interest which was calculated to Rs. 4011.00 @ 12% and also to pay interest pendentilite and future till actual payment is made to him.

2. The applicant was retired on 30.9.1975 as Station Master Vyas Nagar, N. Railway. On his retirement, a sum of Rs. 9240/- was worked out as D.C.R.G., but he was paid only a sum of Rs. 7216.80. Thus, the balance amount of Rs. 2232.20 was not paid to the applicant. The applicant filed an application under section 33-C(2) of the I.D. Act before the Central Govt. Industrial Tribunal cum-Labour Court, which vide its award dated 28.5.1990 dismissed the application and computation made even in favour of the applicant. Against this order, the applicant has approached this tribunal. The applicant has questioned the deduction of a sum of Rs. 29.20 for a loss of station earning, debits and a sum of Rs. 88/- on account of coaching debits and a sum of Rs. 70/- on account of shortage of store items. These are said to be in possession of the applicant.

3. According to the applicant, he was only paid a sum of Rs. 4496.80 + a sum of Rs. 2520/- i.e. total

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amount of Rs. 7116.80 only.

4. In the written statement, a sum of Rs. 7116.80 ~~only~~ has been admitted and it has been stated that before making deduction of 10% in the death cum-retirement gratuity, which could have been done under the rules, the applicant was given a show cause notice and the applicant submitted his reply and it was thereafter, the said order was passed. The admissible death cum-retirement gratuity was reduced to 10% .

5. The Industrial tribunal was of the view that deduction in gratuity was made on account of loss of station earning etc. The tribunal came to the conclusion that as a matter of fact the total amount payable was Rs. 8,120/- and thus balance remained 1103/-. It is true that 10% deduction has been made. As the tribunal has taken the view that dispute remains only in respect of Rs. 1103/- and as such the application was dismissed on the ground that order may be legal or illegal, the same can not be questioned in precluding under section 33(C) (2). The view taken by the tribunal is quite correct, but factually it appears that the tribunal had committed mistake and that's why this application is allowed to the extent that the deduction so made will to the extent of Rs. 1103 only and not to Rs. 2223.20 and the respondents will pay back the said amount to the applicant within a period of three months alongwith interest as payable under the rules. No order as to costs.

  
Vice-Chairman

Lucknow Dated: 20.3.1993.

(RKA)