

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
NEW BOMBAY BENCH, NEW BOMBAY.

Original Application No.133/87

Shri S.V.Manke,
Retired Station Master,
Sai Darsha, Flat No.1,
Second Floor,
Opp. Petrol Pump,
Agashi Road,
VIRAR-401 303

.. Applicant

V/s.

1. Union of India
through
The General Manager,
Headquarter Office,
Western Railway,
Churchgate,
Bombay-400 020.
2. Divisional Railway Manager,
Western Railway,
Bombay Central,
Bombay-400 008.
3. Dy.Chief Accounts Officer,
Western Railway,
Ajmer.

.. Respondents.

Coram: Hon'ble Member(J), Shri M.B.Mujumdar
Hon'ble Member(A), Smt.J.Anjani Dayanand

Appearances:

Shri A.L.Kasturey
Advocate for the
respondents.

ORAL JUDGMENT:

Date: 2.8.1988

BY PER: Shri M.B.Mujumdar, Member(J)

The applicant has filed this application
under Section 19 of the Administrative Tribunals Act for
directing the respondents to pay him the amount of Rs. 5,251/-
which they have withheld from the Death-cum-Retirement
Gratuity(DCRG), with interest.

Contd...2/-

2. The applicant retired from railway service on 31.5.1978 on superannuation after serving for 33 years. The respondents have paid the Provident Fund and other amounts due to the applicant. They have also started paying regular pension to him. However, from the DCRG amount which was due to him the respondents withheld an amount of Rs. 5,251/-. According to the applicant this amount is withheld by the respondents without following any procedure or passing any order and hence illegal.

3. The respondents have filed their written statement stating why they have withheld the amount.

4. The applicant has not come to the Tribunal today though we waited for him upto 1.05 p.m. ^{have} We ~~have~~ however, heard Shri A.L.Kasturey, the Learned advocate for the respondents.

5. After hearing the learned advocate for the respondents and after considering the facts we are of the view that the application shall have to be allowed because the respondents ^w ~~were~~ not justified in withholding the amount of Rs. 5,251/-.

6. The contents of para 2 in the written statement filed by the respondents shows that because the applicant did not send copy of a circular dated 18.4.1977 to his subordinates proper charges for transport of rice were not charged and hence the Railways ~~had~~ suffered a loss of Rs. 5,251/-. But the written statement does not show that any procedure was followed, any show cause notice was issued or any order was passed fixing the responsibility on the applicant ^{before} ~~for~~ withholding the amount. Shri Kasturey could not show us any order by which the amount was withheld. He also could not show us that any procedure

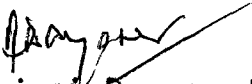
was followed while withholding the amount. But the record shows that the respondents have filed Civil Suit No.175/79 in Vasai Court against the merchants concerned for recovering Rs. 5,251/-. It is not clear whether ~~whether~~ that suit is still pending or not. If the subordinate officer of the applicant had charged less charges contrary to the circular and if the suit is decreed by the Civil Court the respondents will be able to recover the amount from the concerned merchants. From the record made available to us we do not think that the respondents are justified in withholding the amount from the DCRG of the applicant.

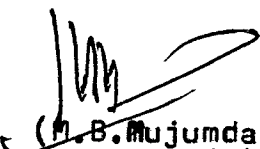
7. The applicant has retired on 31.5.1978. The entire amount of DCRG should have been paid to him within a reasonable time after his retirement. Of course the respondents could have withheld some amount of DCRG by following proper procedure. As they have not done so they shall have to pay the amount with interest @ 10% p.a. from the expiry of two months from the date of retirement.

8. We, therefore, pass the following order:-

ORDER

The respondents shall pay Rs. 5,251/-
(Rupees Five thousand two hundred and fifty one)
with interest @ 10% p.a. from 1.8.1978 to the
applicant within two months from the date of
receipt of a copy of this order. Parties to
bear their own costs.


(J. Anjani Dayanand)
Member(A)


(M. B. Mujumdar)
Member(J)