

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6  
PRESCOT ROAD, BOMBAY-1

O.A. No. 274/93

A.C. Verma .. Applicant  
V/s.

Union of India & Ors. .. Respondents

Coram: Hon. Shri Justice M.S. Deshpande, V.C.

APPEARANCE:

Mr. S. Natarajan  
Counsel for the applicant

Mr. P M <sup>24/3/94</sup> Nair  
Counsel for the respondents

ORAL JUDGMENT:  
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DATED: 10.2.94

(Per: M.S. Deshpande, Vice Chairman)

The short question which arises for consideration is whether the applicant is entitled to interest on account of Gratuity which was withheld.

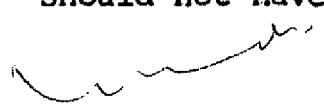
The applicant retired as a Cashier from the Western Railway on 31.1.1987. His son who was in Railway service applied for allotment of a quarter and was allotted a quarter on 8.8.89, but that quarter was found to be in occupation of earlier allottee and was not available for occupation. In 1989 proceedings were taken before the Estate Officer for eviction of the quarter from the applicant and he decided the application ultimately on 4.9.1990. The application was dismissed by the Estate Officer and the claim for eviction was dismissed. On 4.10.1990 the applicant applied

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for release of Gratuity amount with interest in view of the Estate Officer's orders. The quarter came to be regularised on 24.11.1991 in the name of the applicant's son by the competent authority which also approved the waiver of unauthorised retention. The amount of gratuity of Rs. 35,475 was paid to the applicant on 7.5.92. The applicant claims interest from 31.1.1987 to 7.5.92 on the amount of gratuity as the gratuity payment has been unjustifiably delayed.

The factual position has not been denied by the respondents. The learned counsel for the respondents contended that in view of the specific observation in the letter dated 24.12.91, Exh. A-2, that the FA&CAO (WST) has approved the waiving of unauthorised retention of railway quarter by his order dated 24.12.91 no interest can be paid up to the date of the passing of the order.

It is apparent that there was no justification for withholding the gratuity. The learned counsel for the respondents tried to contend that the applicant's son was not entitled to the quarter which was in the occupation of the applicant because he did not belong to the category to which the applicant belonged. However, it is apparent that the applicant had applied for allotment of this quarter to his son as per rules and the son had been allotted another quarter which the son could not get. It was for the department to consider whether in these circumstances mentioned above the waiver of retention should or should not have been waived. The respondent was in

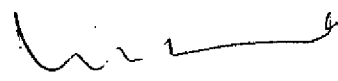


favour of waiver and the respondents cannot be permitted to say that the retention of the quarter by the applicant is unauthorised. That was the only basis for withholding the gratuity.

I, therefore, find that the applicant was entitled <sup>to</sup> ~~for~~ interest on the amount of gratuity which should not have been withheld. The applicant would be entitled to interest from 01.5.1987, because three months time could have been taken by the respondents for payment of gratuity.

The respondents are, therefore, directed to pay to the applicant interest on the amount of Rs.35,475 @ 10 per cent per annum from 1.5.1987 to 7.5.1992, within two months from the date of receipt of a copy of this order. The respondents will be entitled to recover rent due, if any, from the applicant.

With the above directions the application is disposed of with no order as to costs.

  
(M.S. Deshpande)  
Vice Chairman