

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**BOMBAY BENCH**

**OPEN COURT / PRE DELIVERY JUDGMENT IN OA**

Hon'ble Vice Chairman / Member (J) / Member (A)  
may kindly see the above Judgment for  
approval / signature.

V.C. / Member (J) / Member (A) (K/S)

Hon'ble Vice Chairman

Hon'ble Member (J)

Hon'ble Member (A) (K/S)

CP 02/97

Agree subject to  
amendments

1/2

26/8

AM

M (O) D.

Agree

B. M. D.  
26/8

May be fixed for  
pronouncement

m 26/8

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

CONTEMPT PETITION NO.02/97 IN O.A.385/94

Pronounced this the 27 day of August-1997

CORAM:

HON'BLE SHRI B.S.HEGDE, MEMBER(J)

HON'BLE SHRI M.R.KOLHATKAR, MEMBER(A)

S.V.Ramteke,  
6/218, Harvest,  
Shailesh Nagar,  
Dahisar(East)  
Mumbai - 400 068.

By Advocate Shri H.A.Sawant

.. Contempt  
Petitioner

-versus-

1. Shri N.Krithivasan  
General Manager,  
Western Railway,  
HQ Office,  
Churchgate,  
Mumbai - 400 020.

2. Shri R.K.Sareen,  
Divisional Railway Manager,  
Mumbai Central Division,  
Western Railway,  
Mumbai - 400 008.

3. Shri Sudhir Mittal,  
Additional Divisional  
Railway Manager,  
Mumbai Central Division,  
Western Railway,  
Mumbai - 400 008.

By Counsel Shri V.S.Masurkar

.. Contemners

-: O R D E R :-  
(Per B.S.Hegde, Member(J))

Heard Mr.H.A.Sawant for the applicant  
and Mr.V.S.Masurkar for the respondents.

2. Applicant has filed CP 2/97 in O.A.  
385/94. The Tribunal vide its order dt. 7-9-94  
after hearing both the parties held the action  
of the Railways in withholding the entire amount  
of DCRG amounting to Rs.45,200/- payable to the  
applicant is illegal and that the same is required  
to be released. Accordingly CA was allowed and

R/S

..2/-

respondents were directed to make payment of the Gratuity to the applicant in full along with interest @ 12% counting from two months from the date of superannuation i.e. on 1-3-91 and the payments were directed to be made to the applicant within two months from the communication of the order.

3. Against the order of the Tribunal dt. 7-9-94 the respondent department filed an SLP before the Supreme Court. The Supreme Court vide its order dt. 12-7-1995 stayed the operation of the Tribunal's order in respect of the amount deducted by way of occupation charges from the gratuity and interest thereon. Ultimately the apex court by its order dt. 4-12-1995 passed the following order :

"We are not called upon to interfere with the order for direction regarding grant of gratuity but we think that in the facts and circumstances of the case, the Tribunal ought not to have granted interest for delayed payment till the date the respondent vacated the quarter. After he vacated the quarter he was entitled to the payment of gratuity and, therefore, if there was delay he would be entitled to interest. We, therefore, modify the order of the Tribunal and state that the interest will not be payable till one month after he vacated the quarter. The appeal is allowed to that extent only."

4. It is an admitted fact, that though the applicant was superannuated from service on 31-12-1991.

*Per*

he occupied the quarter and vacated the same on 31-1-94. The contention of the applicant is that though there is a specific direction by the Tribunal, the respondents did not release the gratuity amount and committed contempt of this Tribunal's order. The order of the Supreme Court passed on 4-12-95 was received by the applicant in the month of January'96, applicant has filed the CP in January, 1997 which is apparently within the time limit.

5. Respondents in their reply to CP stated that the petitioner has been agitating payment of gratuity but forgot his duty to pay the licence fees including arrears of rent consequent upon the revision of rent from 31-12-91 till the date of vacation of quarters on 31-1-94 i.e. for 25 months and also electricity charges totalling of Rs.69,445/- for the period 1-7-90 to 31-1-94. It is also stated that the normal licence fee from January'92 to April, 1992 i.e. 4 months @ Rs.66/- p.m. comes to Rs.264/- The penal rent from May'92 to January'94 i.e. 21 months comes to Rs.64,176.50. Hence no DCRG is payable.

6. However, the Tribunal's judgment concerning payment of gratuity has become final and that order is required to be implemented. Therefore the action of the respondents in deducting/ adjusting the rent etc. from the DCRG although permissible under the rules cannot be done in this case. Therefore it is incumbent that the administration

should pay the DCRG and the modified interest as per the Supreme Court order without making any adjustment of rent etc. Needless to say the respondent administration would be entitled to separately to make recovery of rent etc. as per law. The payment of DCRG and interest should be made within two months from the date of receipt of this order.

7. In the circumstance we are not discharging the C.P. Place the matter for orders in the <sup>Second</sup> ~~First~~ week of November, 1997.  
on 10.11.97/14.

M.R. Kolhatkar  
(M.R. KOLHATKAR)  
MEMBER(A)

B.S. Hegde  
(B.S. HEGDE)  
MEMBER(J)

M

27/8/97  
order/Judgment despatched  
to Applicant/Respondent(s)  
on 3/9/97

3/9/97