

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.944/1998.

Thursday, this the 18th day of January, 2001.

Coram: Hon'ble Shri B.N.Bahadur, Member (A),

Miss. Jenny Jose,
Kootala House,
St. Antony's Street,
Kuriachira,
Trichur - 680 006.
(By Advocate Shri P.A.Prabhakaran)

...Applicant.

Vs.

Union of India through
Chief Commissioner of I.T. Mumbai
3rd Floor, Aayakar Bhavan,
M.K.Road,
Mumbai - 400 020.
(By Advocate Shri V.G.Rege)

...Respondents.

O R D E R (ORAL)

{Per Shri B.N.Bahadur, Member (A)}

This is an Application made by Ms. Jenny Jose seeking a relief that the Respondents be directed to pay interest on the delayed disbursement of the amounts due to her, on the death of her father. The case made out by the applicant is that her father, Shri C.A. Jose, who was employed with the Respondents expired on 30.4.1992. He left behind the Applicant and her elder Sister as heirs. Retiral dues and Family Pension were due to these persons. It is the grievance of the Applicant that the amounts relating to Family Pension, including arrears and amounts relating to DCRG (Gratuity) were paid late to the Applicant and hence ^{she} seeks a direction to the Respondents to pay suitable amount of interest.

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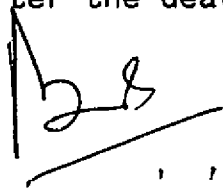
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2. As regards Gratuity part, it is stated that out of Rs.49,560/- due, only Rs.34,780/- were paid to Applicant's Sister. Further details of amounts have been mentioned in the O.A. The Applicant, thus, comes up with a grievance and seeks reliefs as mentioned.

3. The Respondents have filed a written statement in reply to the OA, where details of the case have been described. The claims of the Applicant have been resisted and it is stated that the intimation about the death of the Late Shri C.A.Jose was received only on 19.10.1992. Thereafter, various action taken have been described. The main argument being that the papers that are supposed to be submitted by the beneficiaries were submitted late and that there was no delay on the part of the Respondents. It is stated by the Respondents, inter alia, that the Applicant Ms.Jenny Jose was then a minor and the elder Sister who was already a major at that time was Ms.Juliet Jose.

4. On the earlier dates of hearing, on more than one occasion, we have heard the Learned Counsels on both sides. Since the nature of the claim is such that dates and similar details were important, the Tribunal had requested both Learned Counsels to submit chronological statements of facts to assist the Tribunal in assessing the claim made in a more convenient manner. This has since been done and both statements are before me and the same has also been exchanged between Counsels. The statements are perused. Learned Counsel Shri Prabhakaran had made the point that since the elder Sister was not looking after the Applicant well, the Applicant was staying with her Aunt for a major period after the death of her father. Accordingly, her interest were

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not protected by the elder Sister. He draws attention to some communications on record to make the point that even after her attaining majority in 1995-96 the Department has not dealt with her directly.

5. Learned Counsel for the Respondents has rested his case on their written statement, and also stated that the elder Sister Ms. Juliet Jenny was the natural guardian and the Department had corresponded rightly with her.

6. I have gone through the statement filed by Shri V.G.Rege with the help of both Learned Counsels in the open Court today. In the first place, there is no doubt that intimation was given somewhere in October, 1992. The chronological statement taken on record clearly shows in a detailed manner as to how the Department had been corresponding with Ms. Juliet Jose in regard to requirement of death certificate and other papers. In regard to the Gratuity, they were able to finalise the matter in January, 1994. Fifty percent of the amount was paid to the elder Sister and 10,000/- which is the amount payable without indemnity was paid to the elder Sister since she was the guardian. Further correspondence regarding indemnity certificate was going on. Be that as it may. I have carefully gone through the papers and the arguments made by the Learned Counsels on both sides.

7. Shri Prabhakaran's argument about the lack of direct communication by the Department after 1995 also do not have much force. There is relevance in the argument of the Learned Counsel for the Respondents that the relevant papers that were required for finalising the pensionary benefits were ultimately provided vide letter dt. 30.12.1996 and here also the responsibility for delay lay with the Applicant or her earlier guardian.

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8. Thus, the argument made by Shri Prabhakaran does not hold force. After a careful perusal of the facts, it cannot be said that the Tribunal is convinced that there is any intentional delay or substantial inefficiency on the part of the Respondents in processing the pensionary benefits which were due to the Applicant. It is unfortunate that some time has elapsed, specially before the final payment of Gratuity could be made. However, since the Applicant has not been able to prove that this has happened due to intentional delay on the part of the Department or in gross inefficiency on their part, the claim of the Applicant cannot succeed. In fact, it is more true as can be seen from the statements made that the Department could not receive the relevant documents that are required to process this case. In the circumstances, it is not possible to award any payment of interest on the dues as sought for by the Applicant. In the consequence, the application is hereby dismissed, with no orders as to costs.



(B.N. BAHADUR)
MEMBER (A)

B.