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**Central Administrative Tribunal
Jabalpur Bench**

Dated Thursday this the 2nd day of March, 2006

OA No.785/05

CORAM

Hon'ble Mr.Justice G.Sivarajan, Vice Chairman

B.M.Choubey

S/o Late Shri Rajdhar Choubey

R/o H.No.B-38, Vardhman Green City

Ayodhya Bypass Road

Bhopal-462 041.

Applicant

(By advocate Shri Praveen Yadav
on behalf of Shri S.Paul)

Versus

1. Union of India through
Secretary
Ministry of Communication
Department of Post
New Delhi

2. The Chief Postmaster General
M.P.Circle
Bhopal.

Respondents

(By advocate Shri Manish Chaurasia)

O R D E R (Oral)

By G.Sivarajan, Vice Chairman

Heard Shri Praveen Yadav, learned counsel appearing for the applicant and Shri M.Chaurasia, learned counsel for the respondents.

2. The applicant who is a retired employee under the respondents has filed this OA seeking a direction to the respondents to extend the benefit of the judgment passed by Mumbai Bench in OA No.542, 942 and 943 of 1998 decided on 21.9.2001 and also the law laid down by the Apex Court in V.Kasturi Vs Managing Director, SBI – 1998 (8)

G.S.

SC page 30 and command the respondents to add 97% D.A. in pay of the applicant for the purpose of calculating emoluments and DCRG of the applicant and also consequential arrears of the same.

3. The respondents have filed their reply.
4. Today when the matter came up for hearing, the learned counsel appearing for the applicant as well as the standing counsel for the respondents submitted that the issue raised in this OA is covered by the decision of the Supreme Court in Civil Appeal No.129/03 in the case of State of Punjab Vs. Shri Amar Nath Goyal. I have gone through the said decision of the Hon'ble Supreme Court. It is seen that the respondents in the said case had sought the benefit of circular dated 13.12.96 in which the State Government employees who retired or died on or after 1.4.1995 were entitled to get retirement gratuity/death gratuity on the basis of addition of certain portion of the dearness pay to the basic pay. The said claim was rejected by the appellants. This was taken up before the High court of Punjab & Haryana (CWP No.4995/97 and other cases) wherein it was held that the State Government employees who retired on or after 1.7.93 were entitled to the higher amount of death gratuity and retirement gratuity consequent upon the merger of a portion of dearness allowance into the basic pay. The Hon'ble Supreme court, however, set aside the said judgment of the High Court in so far as they proposed to grant the revised death gratuity to the employees who retired or died before the prescribed cut off date of 1.4.95.

5. In the instant case, the applicant retired on 31.7.93. In view of the decision of the Hon'ble Supreme Court discussed above, the applicant is not entitled to the benefit sought for in this OA. It is accordingly dismissed. In the circumstances, there will no order as to costs.



(G. Sivarajan)
Vice Chairman