

Central Administrative Tribunal  
Jabalpur Bench

OA No.455/04

Indore, this the 17<sup>th</sup> day of August, 2005.

**C O R A M**

Hon'ble Mr. M.P.Singh, Vice Chairman  
Hon'ble Mr. Madan Mohan, Judicial Member

R.P.Mondal  
S/o Late S.K.Mondal  
Office Superintendent Gr.II (Retd)  
Champa  
R/o C/o TN Mondal  
Near Kalchuri Vidya Mandir  
Old Power House, Torwa  
Bilaspur

(By advocate Shri S.Paul)

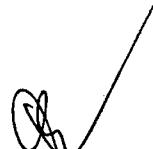
Versus

1. Union of India through  
its General Manager  
South East Central Railway  
Bilaspur.
2. The Divisional Railway Manager  
South East Central Railway  
Bilaspur.
3. The Divisional Electrical Engineer (East)  
South East Central Railway  
Bilaspur.
4. The Sr.Divisional Personnel Officer  
South East Central Railway  
Bilaspur.

(By advocate Shri M.N.Banerjee)

O R D E R

By Madan Mohan, Judicial Member



By filing this OA, the applicant has sought the following reliefs:

- (i) Set aside the order dated 8.3.2004 Annexure A1 and direct the respondents to pay the withheld amount of DCRG to the applicant forthwith.
- (ii) Direct the respondents to pay interest on the delayed payment of gratuity till the date of realization.

2. The brief facts of the case are the applicant was appointed in the respondent department as clerk on 20.7.1964. He was promoted as Office Superintendent Gr.II on 1.3.1993. The applicant retired on 31.3.2002 on attaining the age of superannuation. The applicant was paid his retiral dues on 1.4.2002 but he was not paid the DCRG amounting to Rs.1,73,457/- . No reason was assigned for non-payment of DCRG nor any proceedings was pending against the applicant. His repeated requests for payment of DCRG could not fetch any result. Feeling aggrieved, the applicant filed OA No.709/2003 claiming the DCRG and interest on delayed payment. The above OA was disposed of by the Tribunal directing the respondents to decide the representation of the applicant within three months. The withholding of DCRG without intimation and show cause notice is against the principles of natural justice and is arbitrary, unjust and illegal in nature. Hence this OA is filed.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the action of the respondents in withholding the DCRG is against the settled legal position and is violative of Articles 14 & 16 of the Constitution. At the relevant time, the applicant was working in the Stores of Senior Section Engineer (P.Way) Champa and was the custodian of Tools and Plants and consumable stores of Sr.Section Engineer and the concerned Section Engineer was the custodian of the Stores. The applicant before his retirement-preferred applications dated 8.3.2002 and 18.3.2002 to his immediate supervisor/in charge and also to his higher authorities requesting to depute a staff in his place, as he was retiring on 31.3.2003. However, no arrangement was made and the applicant was allowed to retire



from service on 31.3.2003. There was nothing adverse against the applicant and no departmental/judicial proceedings were pending against him till his retirement. No opportunity of any nature has been given to the applicant.

4. In reply, learned counsel for the respondents argued that the DCRG of the applicant was withheld due to non receipt of clearance certificate from the concerned department because the applicant had failed to handover the charge of stores to his reliever Shri C.L.Prajapati, Sr.Clerk of SE(P.Way),Champa who was ordered to take charge from applicant vide order dated 30.3.2002 (Annexur R1). However, an arrangement had been made to take over the charge of the stores from the applicant before his retirement vide letter dated 30.3.3003. The Section Engineer,Champa had taken lock and key of the stores from the applicant only on the date of retirement on humanitarian ground. As regards posting of reliever it was not possible to post more than one person against a particular post well in advance. The applicant himself was not interested to hand over the charges of stores to his reliever. The inventory was taken on 1.4.02 i.e. the very next day of retirement of the applicant and it was found that 95 items were found in shortage in the stores for which the applicant was responsible as he was the custodian of the stores prior to the said date. The arrears of electricity consumption for the period from 1981 to 2002 were recovered from the applicant's DCRG as it was not recovered earlier from his salary. The respondents have not committed any illegality or irregularity in their action.

5. After hearing the learned counsel for both parties and carefully perusing the records, we find that the applicant retired on 31.3.2002. Before his retirement, he preferred applications to the respondents dated 8.3.2002 and 18.3.2002 (Annexures A5 & A6) in which he has mentioned that he would be retiring on 31.3.2002. Hence he requested that some arrangements be made to take over the charge from him. He retired without any stigma. The argument advanced on behalf of the applicant that no departmental proceedings were pending against the



applicant till his retirement and the respondents did not make any arrangement to take over the charge from him in due time before his retirement seems to be correct. The further argument on behalf of the applicant that the impugned order dated 8.3.2004 (Annexure A1) is passed without giving any opportunity of hearing to the applicant and even while it was mandatory according to natural justice and law seems to be correct. The respondents should have given an opportunity to the applicant before passing the aforesaid order.

6. Considering all facts and circumstances of the case, we are of the considered opinion that the impugned order dated 8.3.2004 (Annexure A1) is passed by the respondents without giving an opportunity of hearing. Hence it is liable to be quashed and set aside. We do so. Respondents are directed to take a decision <sup>and pass appropriate orders</sup> in the matter after affording an opportunity to the applicant of hearing within a period of 3 months from the date of receipt of a copy of this order.

7. The OA is disposed of as above. No costs.

  
(Madan Mohan)  
Judicial Member

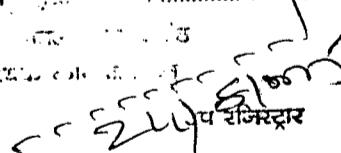
  
(M.P. Singh)  
Vice Chairman

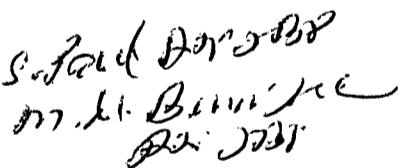
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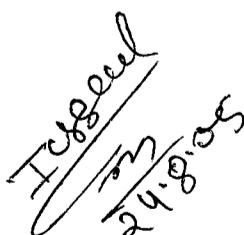
पृष्ठांकन सं. ओ/न्या.....जवलपुर, दि.....  
प्रतिलिपि वाचे वित्त :-

- (1) सचिव, उच्च न्यायालय, जवलपुर, जवलपुर
- (2) अधिकारक शोपिया, जवलपुर, के काउंसल
- (3) प्रदर्शनी शोपिया, जवलपुर, के काउंसल
- (4) बोर्डर, राजनीति, जवलपुर

सूचना एवं वाचायाम को दिया गया

  
प. सिंह

  
M.P. Singh  
22/3/2008

  
T. Singh  
24/3/08