

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 128 of 2003

Jabalpur, this the 29<sup>th</sup> day of October, 2004

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

V.P. Sheth,  
Aged about 67 years,  
S/o Late Shri Popatlal Sheth,  
1A/1703, Green Acres,  
325, Lokhandwala Complex,  
Andheri(West),  
Mumbai 400 053

APPLICANT

(By Advocate - Shri K.L. Jain)

VERSUS

1. State of Madhya Pradesh  
Through Principal Secretary to  
Government, General Administration  
Department, Mantralay, Vallabh  
Bhawan, Bhopal

2. Accountant General,  
(Lekha Evam Hakdari),  
Madhya Pradesh,  
Jhansi Road,  
Gwalior

RESPONDENTS

(By Advocate - Shri Om Namdeo for respondent No.1  
Shri P.Shankaran for respondent no.2)

O R D E R

By Madan Mohan, Judicial Member -

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

"8.2 ... the amount of Rs.54,415.00 adjusted from  
the anticipatory gratuity of the Applicant has  
wrongly been adjusted and that only an amount of  
Rs.17,714.00 should have been adjusted.

8.3 to issue a direction to the Respondents to  
release the balance gratuity of the Applicant after  
adjusting the anticipatory gratuity already paid and  
the amount of Rs.17,714.00 recoverable from the  
applicant, the Respondents may also be directed to  
pay to the Applicant interest at market rate of 18%  
on the undisputed anticipatory gratuity.

8.4 to pay interest at market rate of 18% to the  
applicant on the delay in payment of provisional and  
final pension to the Applicant and truncated DCRG  
more than 8 years and 9 months.

8.5 The Respondents may be further directed to  
revise the pension of the Applicant from 1.1.96 and  
pay him arrears on account of such revision."



2. The brief facts of the case are that the applicant was a direct recruit of Indian Administrative Service of 1958 batch. He was compulsorily retired on completion of 50 years of age from 10.1.1989. He had filed an OA agitating the matter before Central Administrative Tribunal, Jabalpur Bench. In an interim direction the Tribunal permitted him to retain the official residential accommodation till the disposal of his OA No. 130/89. The Tribunal allowed the OA vide order dated 25.1.1990. But the Apex Court set aside the Tribunal's order dated 25.1.90 on 11.1.94. The official residential accommodation was vacated by the applicant on 24.4.90. In this way, he was in possession of official residential accommodation under competent judicial order till 24.4.90. He was therefore not liable for <sup>Payment of market</sup> rate rent of the official residential accommodation. The respondents also did not take steps to prepare the pension case of the applicant nor did they start paying him anticipatory pension. The pension was paid as late as in November, 1997 and a sum Rs.36,701/- out of the DCRG due to the applicant has not been paid so far. The action of the respondents is against the provision of the All India Services (Death-cum-Retirement Benefits) Rules, 1958. Hence, the OA.

3. Heard the learned counsel for the applicant and respondents and perused the records carefully.

4. It is argued on behalf of the applicant that the interest on the amount of Rs.18503/- should be paid to the applicant. He does not want interest on any other dues if not paid to the applicant. He further argued that the OA <sup>No.130/89</sup> filed by the applicant was decided by the Tribunal on 25.1.90. This is a very detailed order by which the reliefs claimed by the applicant were granted. According to this order of the Tribunal, the applicant is not liable to pay the market rate rent for the official residential accommodation retained by

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him in compliance with the order of this Tribunal.

4. In reply the learned counsel for the respondents argued that the Hon'ble Supreme Court has allowed the appeal filed by the Union of India and set aside the order of the Tribunal vide its judgment dated 11.1.94 in Civil Appeal No. 3827/90.

5. The learned counsel for the applicant argued against the averment advanced on behalf of the respondents that the Hon'ble Supreme Court has not set aside the order passed by the Tribunal regarding the official residential accommodation occupied by the applicant. The Hon'ble Supreme Court has only restored the order of compulsory retirement.

6. The learned counsel for the respondents further argued that the Hon'ble Supreme Court has set aside the order of the Tribunal in OA No.130/89 in totality. This is apparently clear from the judgment of the Hon'ble Supreme Court. He further argued that the amount of Rs.18,503/- has already been released by the respondents and an authority to pay this amount to the applicant has been issued by the office of the Accountant General, However, it is for the Treasury Officer of the State <sup>who</sup> will make the actual payment to the applicant.

7. After hearing the learned counsel for the parties and perusal of both the aforesaid judgments i.e. the order of Central Administrative Tribunal, Jabalpur Bench passed in OA No.130/89 dated 25.1.90 and the judgment of Hon'ble Supreme Court passed in the Civil Appeal No.3827/90,



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we are of the considered opinion that the Hon'ble Supreme Court has been pleased to set aside the order passed by the Tribunal in its totality and not in part. Hence, the argument on behalf of the applicant in this regard is not legally tenable at all. As regards the interest on the amount of Rs. 18503/- <sup>to be paid to the applicant</sup> we find that the respondents have already released this amount of Rs. 18503/- and the authority to pay this amount to the applicant has also been issued by the office of the Accountant General. However, now it is for this Treasury Officer of the State Govt. to make the actual payment to the applicant. Thus, we direct the respondent No. 1 to consider the matter as regard payment of Rs. 18503/- and interest there on ~~XXXXXXXXXX~~ within a period of three months from the date of receipt of a copy of this order. Accordingly, the OA stands disposed of. No costs.

(Madan Mohan)  
Judicial Member

(M.P. Singh)  
Vice Chairman

skm

पूछांकन सं ओ/व्या.....जबलपुर, दि.....

प्रतिलिपि अद्यो दित:-

- (1) सचिव, उच्च न्यायालय वार एसोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/शु.....के काउंसल
- (3) प्रत्यक्षी श्री/श्रीमती/शु.....के काउंसल
- (4) अंशपत्ता, कोमरा, जबलपुर न्यायाधीश  
सूचना एवं आवश्यक कार्यवाही हेतु

KL Sain  
Om Narain  
P. Shankar

उप रजिस्ट्रार

Issued  
On 2-11-04  
BS