

**Central Administrative Tribunal
Principal Bench, New Delhi**

M.A. No.3881/2015 in O.A.No.3359/2013

Order reserved on 03.05.2016

Order pronounced on 16.05.2016

Hon'ble Mr. V.N. Gaur, Member (A)

J.K. Malotra

.. Applicant

(By Advocate: Mr. S.P. Sethi)

Versus

Union of India & others

.. Respondents

(By Advocate: Mr. Shailendra Tiwary)

O R D E R

MA No.3881/2015

This MA has been filed by the applicant in OA No.3359/2013 with a prayer to list MA No.651/2014 for arguments.

2. We have heard the learned counsels.

3. For the reasons stated in MA, the same is allowed.

MA No.651/201

4. In this MA, the applicant has prayed for execution of the order passed by this Tribunal in OA No.3359/2013 on 25.09.2013. The operative part of the order passed in OA reads as follows :-

“4. Since the learned counsel for applicant submitted that he would be satisfied only if a direction is given to the respondents to apprise him the specific details to testify the payment of enhanced amount of gratuity to him and he is informed about the entitlement of the amount of leave encashment, I deem it appropriate to decide the present Original Application at admission stage with a direction to the respondents to deal with the contents of

the legal notice dated 27.9.2012 (Annexure A-1) served upon the Secretary, Ministry of Railway, Govt. of India, New Delhi and the General Manager, Northern Railway, New Delhi and to inform the applicant about his entitlement to the amounts of gratuity and leave encashment mentioned in the prayer clause and the details thereof, within a period of two months from the date of receipt of a copy of this order.

5. With the aforesaid observations, the Original Application stands disposed of.”

5. Learned counsel for applicant submits that the respondents in reply to his representation have indicated the break-up of amount admissible to him following the revision of scales after 5th Pay Commission. There is no evidence that the difference amount of gratuity and encashment of leave has been paid to the applicant. In support of his contentions the applicant has enclosed a copy of his bank statement for the period 01.01.1998 to 02.11.1998 showing that no such amount has been credited in his account during that period.

6. The learned counsel for the respondents submitted that difference of payment of DCRG was arrived at Rs.71989/- and the order for the same was issued on 29.10.1998. The applicant had also approached the Pension Adalat held by Northern Railway and related information was again supplied to him vide letter dated 12.12.2014. The respondents have made every effort to retrieve information from available record regarding details of difference of payment of DSRG and difference of leave encashment and the concerned authority has given certificate that no un-paid amount to the applicant is lying in Deposit Misc. since 1998-99. The applicant has raised the issue after a long delay of 15 years and

the respondents are not able to retrieve the old records some of which might have been destroyed.

7. Rejoining, the learned counsel for applicant submitted that as per the instructions in the Railways, the service record of an employee cannot be destroyed till he is receiving pension or the family is receiving the family pension. The respondents have only shown the sanction order but there is no document to show that it was actually paid to the applicant.

8. We have heard the learned counsels and perused the record. The short issue raised by the applicant is that he has not been paid the difference amount of DCRG and leave encashment following the pay revision after 5th CPC. On 25.09.2013, this Tribunal had directed the respondents to deal with the contents of the legal notice dated 27.09.2012 served on Secretary, Ministry of Railway, Govt. of India, New Delhi and the General Manager, Northern Railway, New Delhi and to inform the applicant about his entitlement to the amounts of gratuity and leave encashment mentioned in the prayer clause and the details thereof. The respondents have not gone beyond giving the break-up of the amount paid to the applicant on account of commutation of pension and DCRG. It has been claimed by the respondents that as stated in Annexure-P/1 filed with the counter reply, total amount due to him on account of difference due to revision of pay has been paid vide AB No.221740 dated 24.03.1998 and CO7 No.221172 dated 24.03.1998. This was communicated to the applicant vide letter dated 12.12.2014. The applicant on the other hand, has submitted a copy of the bank

statement starting from 01.01.1998 to 02.11.1998 that does not show any amount credited to his account other than the amount of Rs.184521/- corresponding to the difference in commutation amounting to Rs.1,97,192/-, which was paid after some deductions. There is no entry with regard to the difference of DCRG of Rs.71989/- and difference of leave encashment of approx. Rs.56300/- as calculated by the applicant. The sole ground taken by the respondents is that the matter is more than 15 years old and, therefore, no further information can be supplied. This Tribunal in its order dated 25.09.2013, has directed the respondents to deal with the contentions raised in the legal notice and one of the contentions was that applicant never received DCRG and leave encashment amounts and that is why he demanded payment of that amount with interest of 18%. The respondents in their reply have not been able to establish, other than quoting the AB No.221740 and CO7 No.221172 dated 24.03.1998, that too only in respect of difference of DCRG, that the difference of DCRG and leave encashment was paid to the applicant. In the matter of accounts, and more so in respect of the pensioner who is alive, the argument that no record is available to verify whether the aforementioned amounts were paid or not cannot be accepted. The letter issued by the respondents on 12.12.2014 has not been considered as a compliance of the order dated 25.09.2013.

9. In these circumstances, it is ordered that respondent No.1 shall personally look into the matter and direct the concerned authority to check as to what happened to the amount that is supposed to have been paid to the applicant on account of DCRG and leave encashment. The

matter is to be taken seriously as the amount involved, more than rupees one lakh, was considerably large amount in 1998 and the authorities should satisfy themselves that the money had reached its actual destination and that there was no wrong doing in the process. The applicant may also be informed of particulars of the payment. This exercise may be completed within two months.

10. The respondents may keep in mind that the applicant is their own ex-employee, retired on 31.10.1996, and is now a senior citizen 68 years in age. The case has to be dealt with that sensitivity. With this the MA stands disposed of.

(V.N. Gaur)
Member (A)

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