

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

CP No. 38 of 2013

**Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)
Hon'ble Mr. Swarup Kumar Mishra, Member (J)**

Nabin Bihari Mohanty, aged about 72 years, S/o Late Guru Charan Mohanty, resident of Vill/PO- Pandiri, PO/Dist. – Kendrapara.

.....Applicant

VERSUS

1. Sri Indra Ghosh, General Manager, East Coast Railway, Chandrasekharpur, Bhubaneswar – 751023.
2. Sri B.B.Mandal, Sr. Divisional Personnel Officer, East Coast Railway, At/PO- Khurda Road (Jatni), Dist. – Khurda – 752020.
3. Sri K.Sarkar, Divisional Personnel Officer, East Coast Railway, At/PO- Khurda Road (Jatni), Dist. – Khurda – 752020.
4. Sri S.K.Mohanty, Divisional Railway Manager, East Coast Railway, Khurda Road, Khurda – 752020.

.....Respondents/Contemnors.

For the applicant : Mr.P.K.Padhi, counsel

For the respondents: Mr.S.K.Ojha, counsel

Heard & reserved on : 24.1.2019

Order on :

O R D E R

Per Mr.Gokul Chandra Pati, Member (A)

This Contempt Petition (in short CP) has been filed by the applicant for non-compliance of the order dated 22.5.2013 of this Tribunal in the OA No. 634/2011 (Annexure-A/1). The operative part of this order is as under:-

"9.However, we direct the Respondent No.1 in this O.A. to determine the rate and quantum of interest on the delayed payment of gratuity. The Respondent No.1 is also directed to take disciplinary action against the railway servants who are found to be responsible for the delay in payment of gratuity as per Rule-87(3) of the Railway Services (Pension) Rules, 1993."

2. The applicant is aggrieved because of non-payment of the interest on delayed payment of gratuity as per the order dated 22.5.2013 of the Tribunal. After filing of the CP, the respondents filed a reply dated 5.9.2014 stating that the applicant is due to pay to the Railways Rs. 36 lakhs. Hence, the respondents filed a Writ petition challenging the order of the Tribunal, which is pending before Hon'ble High Court. However, as stated in the show cause reply

filed on 5.9.2014, it has been decided by the respondents to comply the order dated 22.5.2013 of the Tribunal and hence, the DCRG with the interest has been released to the applicant vide order dated 28.8.2014 after deducting Rs. 775/- towards the electrical charges as stated at para 6 of the show cause reply filed on 5.9.2014.

3. From the order sheet of the case dated 18.9.2014 it is seen that vide order dated 1.9.2014 of Hon'ble High Court in WP(C) No. 15390/2014 and MA Nos. 13717 and 13718 of 2014, further proceeding of this CP was stayed. But on hearing on 24.1.2019, it has been clarified by learned counsel for the respondents and applicant, that the stay order was for a limited period and presently, no stay order is in force.

4. At the time of hearing on 16.1.2019. Mr. P.K. Padhi, learned counsel for the applicant submitted that the respondents are liable to pay interest at the rate of 12% per annum on compounding basis in view of the Government of India's decision listed after the rule 68 of the CCS (Pension) Rules, 1972.

5. Mr. S.K. Ojha, learned counsel for the respondents submitted that in this case, for the interest on delayed payment of gratuity, the provisions of the Railway Services (Pension) Rule, 1993 is applicable, not the CCS (Pension) Rules, 1972. He submitted that the rule 87 does not specify the rate of interest to be paid. As per the Railway Board circular dated 6.11.2008 (RBE No. 169/2008), copy of which was submitted by Mr. S.K. Ojha, the interest should be calculated at the rate applicable to the State Railway Provident Fund (in short SRPF) deposits compounded annually. Mr. S.K. Ojha drew our attention to the calculation sheet for the interest paid to the applicant as enclosed to the Additional show cause reply dated 31.12.2018, which indicated the interest rate of 9% for year 2002-03, 8.6% for part of the year 2011-12, 8.8% for the year 2012-13 and 8.7% for the year 2013-14 and part of the year 2014-15. For the rest of the years till the date of payment of gratuity, the interest rate of 8% per annum has been taken and the interest has been compounded annually.

6. We have considered the submissions of the learned counsels for both the parties. As per the order dated 22.5.2013 of this Tribunal, the Respondent No.1 was directed to decide the rate at which the interest is payable to the applicant and as submitted by learned counsel for the respondents, the interest paid in this case is in accordance with the Railway Board circular No. (RBE No. 169/2008). The contentions of learned counsel for the applicant claiming the interest at the rate of 12% per annum is not tenable, since the circular of the Railway Board dated 6.11.2008 is applicable in this case. Moreover, it is seen that the Government of India's Decision No. 2, listed after the rule 68 of the CCS (Pension) Rules, 1972, states as under:-

"(2) Interest for delayed payment of Retirement/Death Gratuity to be at the rate applicable to GPF deposits.

[G.I., Dept. of Pen. & P.W., O.M. No. F. 38/34/2001/-P. & P.W. (F), dated the 29-4-2002]"

Hence, the rate of interest applicable for delayed payment of gratuity under CCS (Pension) Rules, 1972 is the rate of interest applicable to the GPF deposits.

7. In view of the above, we are of the considered view that the order dated 22.5.2013 of this Tribunal passed in the OA No. 634/2011 has been substantially complied with and there is no valid ground for continuing the present contempt proceedings. Accordingly, this CP is dropped and the notices issued are discharged.

(SWARUP KUMAR MISHRA)
MEMBER (J)

(GOKUL CHANDRA PATI)
MEMBER (A)

I.Nath