

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.20/257/2018

Date of Order: 2.07.2019

Between:

Smt. G. Nagamani,
D/o G V Ramana Murthy
Aged 74 years, worked as Asst. Postmaster (accounts)
(Group C) Waltair R.S., Head Post Office,
Visakhapatnam
R/o D.No.301/5, Postal Colony
Sector V of M.V.P.Colony, Visakhapatnam-17, A.P. Applicant

AND

1. Union of India, Rep. by Director General
Department of Posts, Sansad marg, New Delhi-1.
2. The Chief Postmaster General
A.P.Circle, Vijayawada, A.P.,
3. The Postmaster General
Visakha Region, Visakhapatnam, A.P.,
4. The Director of Accounts, (Postal)
A.P.Circle, Vijayawada, A.P.
5. The Senior Superintendent of Post Offices
Visakhapatnam Division, Visakhapatnam, A.P. .. Respondents

Counsel for the Applicant ... Mr. Krishna Devan.
Counsel for the Respondents ... Mr. K. Venkateswarlu, Addl. CGSC

CORAM:

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORAL ORDER

2. OA is filed for withholding a part of Gratuity payable after retirement.

3. Brief facts of the case are that the applicant retired from the respondents organization in 2004. Even after retirement a sum of Rs.58,251/- was withheld from her Gratuity. Several representations were made but of no avail. Aggrieved, OA has been filed.

4. The contentions of the applicant are that for a similarly situated employee Mr J. Varahalu, Gratuity, which was withheld, was released. Applicant claims that any amount can be withheld from pensionary benefits after retirement, by the Hon'ble President only, by initiating proceedings under Rule 9 of the CCS (Pension) Rules, 1972. Respondents claim that the amount was withheld on grounds that excess payment was made due to wrong fixation of pay. The issue was dealt by this Tribunal in OA 1434/1993 (Kum. G. Nagamani v. DG, Department of Posts & Others) on 5.5.95 and allowed the same. The Writ Petition No.15029 of 2001, alleged to be pending, has been finalized. No notice was issued before withholding the Gratuity.

5. Respondents oppose the contentions by stating that in regard to Gratuity, which was released in the case of Mr J. Varahalu, it was based on the orders of the Tribunal in OA 1434/1993 and that it applies only to him. Therefore, the Gratuity was not released.

6. Heard the counsel for applicant. None appeared for the respondents. Perused the pleadings on record.

7. (I) The Writ Petition No.15029 of 2001 was dismissed by the Hon'ble High Court on 10.12.2014. Applicant is similarly placed as Mr.J. Varhalu in regard to issue, under jurisdiction, which was settled by the Tribunal in OA 1434/1993. Claiming that the verdict of this Tribunal applies only to Mr.Varahalu, though the issue is similar, by the respondents is incorrect, as per the observations of the Hon'ble Supreme Court **Inder Pal Yadav & Others** vs. **Union of India & Others**, (1985) 3 SCR 837, as under:

“There is another area where discrimination is likely to rear its ugly head. These workmen come from the lowest grade of railway service. They can ill afford to rush to court. Their Federations have hardly been of any assistance. They had individually to collect money and rush to court which in case of some may be beyond their reach. Therefore, some of the retrenched workmen failed to knock at the doors of the court of justice because these doors do not open unless huge expenses are incurred. Choice in such a situation, even without crystal gazing is between incurring expenses for litigation with uncertain outcome and hunger from day to day, it is Hobson's choice. Therefore, those who could not come to the court need not be at a comparative disadvantage to those who rushed in here, if they are otherwise similarly situated they are also entitled to similar treatment, if not by anyone else at the hands of this Court. ”

(II) Besides, respondents cannot withhold Gratuity, indefinitely, without initiating disciplinary action against the retired employee under Rule 9 of CCS (Pension) Rules, 1972. No notice was issued even to withhold the amount, thereby violating the Principles of Natural Justice.

(III) Therefore, based on rules and law the action of the respondents is arbitrary, against rules and Principles of Natural Justice, as well as the legal principal laid down by the Hon'ble Supreme Court cited supra. The OA fully succeeds. Respondents are, therefore, directed to consider as under:

- i) To release the withheld amount of Gratuity of Rs 58,251.
- ii) Interest be paid as per prevailing GPF rate of interest from the date due to the date of payment.
- iii) Time allowed is 3 months from the date of receipt of this order.
- iv) No order as to costs.

With the above directions, the OA is allowed with no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 2nd day of July, 2019

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