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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2624 OF 2003

New Delhi, this the 30th day of October, 2003

HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

A.P. SHARMA
AGED ABOUT 63 YEARS,
RETIRED STATION MASTER DUGANPUR,
NORTHERN RAILWAY, MORADABAD,
S/O SHRI SHYAM SUNDER LAL,
C/O JITENDRA SHARMA, C-3/261,
YAMUNA VIHAR, NEW DELHI.

Through :
H.P. Chakravorti,
Advocate, CAT, Bar Room,
P/Bench, New Delhi.

..... Applicant

(By Advocate : Shri H.P. Chakravorti)

Versus

1. The Union of India through,
The Chairman Railway Board,
Principal Secretary,
To Govt. of India,
Ministry of Railways,
Rail Bhawan,
New Delhi.
2. Divisional Railway Manager,
Northern Railway,
Moradabad.

.... Respondents

ORDER (ORAL)

This Original Application under Section 19 of the Administrative
Tribunals Act, 1985 has been filed by the applicant seeking a direction for
quashing the impugned order dated 19.12.2002 by which he has been informed
that Rs. 70,000/- ^{was} withheld out of the total gratuity payable to him.

U. B. Singh

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2. The applicant stated that after more than 39 years of service with the respondents, he retired on superannuation on 31.8.2001. The only grievance in this OA is that he has not been paid the entire amount of the gratuity payable to him inasmuch as Rs.70,000/- has been withheld by the respondents for reasons not disclosed to the applicant. It is stated by the applicant that immediately after coming to know about this fact that the said amount has been withheld from the total amount of gratuity payable to him, he made representations, last such representation has been made on 1.5.2002 (Annexure A/3). The learned counsel of the applicant states that till date no decision on the representation has been communicated to the applicant. Therefore, he states that respondents be directed to take a decision in the matter and in any case, inform the applicant the reasons for withholding the amount of Rs.70,000/- from the amount of gratuity payable to the applicant.

3. Normally a prayer for disposal of representation only is not entertained by the Tribunal but this is a peculiar case where the applicant has not been informed about the reasons for which an amount of Rs.70,000/- has been withheld, out of the total amount of gratuity payable to him. The Hon'ble Supreme Court in the case of Union of India and others Vs. Madan Mohan Prasad 2003 (1) ATJ 246 has held that only 'admitted' or 'obvious' dues could be adjusted against the death-cum-retirement gratuity payable to the employees. It has also been stated in that order and judgment of the Hon'ble Supreme Court that penal rent/damages do not fall under the term of admitted and obvious dues. Considering the above decision of the Hon'ble Supreme Court, the impugned order dated 19.12.2002 (Annexure A1), prima facie, appears to be illegal. From the impugned order, it does not appear to be a case

Signature

where a part of the amount of the total gratuity payable to the applicant is withheld in pursuance of recovery of admitted dues. As a matter of fact, no details of the reasons for which a part of the total amount of the gratuity payable to the applicant, which is held in abeyance, is disclosed to him. In view of these facts, the impugned order dated 19.12.2002 (Annexure A1) is quashed at this stage even without issuing notice to the respondents with a direction to Respondent No.2 to reconsider the case of the applicant in the light of the decision of the Hon'ble Supreme Court and dispose of the pending aforesaid representation of the applicant by self contained reasons and speaking order under intimation to the applicant. In case, it is decided by the respondent No.2 that the gratuity was wrongly withheld, he may make the payment of the same along with interest at the rate of 6% per annum from the date following three months ^{of retirement} from the ^a due date, i.e., 1.12.2001.

4. In view of the observations and directions given in the preceding paragraph, this Original Application is disposed of at the admission stage itself without any order as to costs.

(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

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