

Sl.No.21

MA 1134/2004 in OA 2467/2003

5.08.2004

Present: Shri ~~R~~.K. Sarkar, counsel for applicant
Shri R.L. Dhawan, counsel for respondents

Heard the counsel for the parties on MA.

2. Earlier the applicant has filed OA 2467/2003 ^{which is} was disposed of by an order dated 10th October, 2003 at the admission stage itself directing the respondents to pass a reasoned and speaking order after consideration of the representation of the applicant which was pending before them within a period of one month. Receiving no response from the respondents within the period specified, applicant has filed this MA in which it has been stated that he has received payment of Rs.65153 against his lawful claim of Rs.70879 much after the specified date on 31.3.2004 and seeks payment of balance amount alongwith interest @ 18% thereon.

3. Counsel for the respondents has contested the MA stating that only an amount of Rs.65153 was inadvertently deducted [†] from the gratuity of the applicant and the same has since been refunded in full in March, 2004. According to the counsel, nothing more is due to the applicant and the MA deserves to be dismissed.

4. Thereupon, counsel for the applicant has drawn my attention to the calculation sheet annexed by the respondents to their reply and has contended that respondents themselves have admitted that a sum of Rs.70879 has been deducted from his DCRG (R-3). Further drawing my attention to the letter dated 31.1.2003 from

DRM Office addressed to the Medical Director, Northern Railway Central Hospital, New Delhi, he has argued that it is clear from this reference that recovery made prior to letter dated 10.11.95 has wrongly been made. Counsel has therefore contended that respondents should have refunded the entire amount of Rs.70879 alongwith interest.

5. I have considered the arguments advanced by the counsel for the parties. It is not disputed by the respondents that a sum of Rs.70879 has been deducted from the DCRG of the applicant after getting the same vetted by the FA&CAO/E. However, it has not been explained as to how refund of only Rs.65153 has been made. Obviously, full amount inadvertently recovered has not been made good by the respondents.

6. Under the circumstances, I allow this MA partly and direct the respondents to refund the balance amount to the applicant. In so far as charging of interest thereon is concerned, the same may be allowed on the balance amount as per rules. MA disposed of accordingly.

S.K. Naik
(S.K. Naik)
Member(A)

/gtv/