(2002) 12 AP CK 0070

In the Andhra Pradesh High Court

Case No : Writ Petition No. 22977 of 1998

K. Dakshina Murthy APPELLANT

Vs

Central Administrative Tribunal and Others RESPONDENT

Date of Decision : 02-12-2002

Acts Referred:
Railway Services (Pension) Rules, 1993 — Rule 15, 87(4)

Citation : (2003) 1 ALD 557

Hon'ble Judges : S.R. Nayak, J;B. Seshasayana Reddy, J

Bench : Division Bench

Advocate : G. Ramachandra Rao, for the Appellant; G.S. Sanghi, SC for Railways for respondent Nos. 2 and 3, for the Respondent

Final Decision : Partly Allowed

Judgement

S.R. Nayak, J.—This writ petition preferred against the judgment of the Central Administrative Tribunal dated 28.8.1997 in O.A. No.277 of 1997. O.A. No.277 of 1997 was filed by the petitioner herein praying for a direction to the respondents to pay a sum of Rs. 12,524/- towards gratuity with interest on delayed payment of gratuity amount at the rate of 12% from 1.12.1994 till payment. The case put forth by the petitioner in the Original Application be noticed briefly as under:

2. The petitioner, while working as Office Superintendent Grade-II on a pay of Rs. 2050/- in the scale of Rs. 1600-2660, was promoted to Office Superintendent Grade-1 with effect from 5.12.1994 in the scale of pay of Rs. 2000-3200 (RSEP) on pay of Rs. 2120/- from 31.10.1994 till he retired from service in terms of the proceedings of the second respondent. According to the applicant, the entire gratuity amount payable to him in terms of the service conditions was not paid to him within the stipulated time. The petitioner also complained that the action of the department in deducting a sum of Rs. 19,158/- towards alleged rental arrears, electricity charges, scooter advance etc., from the gratuity amount of Rs. 41,976/- was illegal and arbitrary. The petitioner also contended that the respondents ought to have paid the interest for the delay in paying the gratuity

amount.

3. The O.A. was opposed by the respondents herein by filing a detailed counter-affidavit. In the counter-affidavit, it was stated that though the petitioner retired on 30.11.1994, he did not vacate the official quarter and he vacated the said quarter only on 25.11.1995 and, therefore, the dues payable by the petitioner on account of unauthorised stay were deducted from gratuity amount payable to the petitioner in terms of law and, therefore, deduction of a sum of Rs. 19,158/- towards aforementioned heads of liabilities is justified and legal.

4. The learned Tribunal having opined that the petitioner, having been in occupation of the official quarter beyond the time granted by the department illegally, is liable to pay the rents including the penal rents and, therefore, the department was justified in deducting rents from the gratuity payable to the petitioner, rejected his claim. Similarly, the learned Tribunal found justification in the action of the department in deducting sums of money towards electricity charges, scooter advance etc. In that view of the matter, the learned Tribunal by the impugned order rejected the O.A., however, reserving liberty to the petitioner to make appropriate representation to the department if he thinks, that the calculation of the gratuity is not done properly. Hence, the aggrieved applicant filed the writ petition.

5. Heard Sri G. Ramachandra Rao, the learned Counsel for the petitioner-employee and Sri Sanghi, learned Standing Counsel for the Railways.

6. Sri Ramachandra Rao, would strenuously contend that the occupation of the official quarter by the petitioner till he vacated on 25.11.1995 consequent upon the rejection of his request and his son''s request that the same quarter might be allotted to his serving son-employee could not be regarded as an unauthorised occupation so as to attract imposition of penal rent, and if that is so, there was absolutely no justification for the department to deduct a sum of Rs. 12,652/- towards arrears of rents. Sri Ramachadra Rao alternatively would contend that even assuming that the deduction effected by the department is justified and legal, even then, the department is liable to pay interest to the petitioner on delayed payment of gratuity in terms of Sub-rule (2) of Rule 87 of the Railway Services (Pension) Rules, 1993, for short ''the Rules'', because, admittedly, a sum of Rs. 11,067/- was paid on 6.5.1996 and the balance of Rs. 11,751/- on 15.1.1997 to the petitioner. Sri Sanghi, the learned Standing Counsel for the Railways, on the other hand, contended that the department was well justified in deducting a sum of Rs. 19,158/- towards electricity charges, scooter advance etc., as rightly held by the learned Tribunal. Sri Sanghi adverting to the claim of the petitioner for interest would point out that on account of the fact that by virtue of the order of the Supreme Court dated 29.4.1993 in SLP No. 4206 of 1993, the claim of the petitioner had to be worked out by granting notional increments etc., and in that process, delay was occurred even after the petitioner vacated the premises on 25.11.1995 in the matter of payment of gratuity and, therefore, there is no justification for the applicant to claim interest in peculiar

fact-situation of the case.

7. Having heard the learned Counsel for the parties, we do not find any flaw or error in computation of the gratuity at Rs. 41,976/- determined by the department. Further, deduction of Rs. 19,158/- from the said sum of gratuity towards rental arrears, electricity charges and scooter advance etc., could not be regarded as unauthorized and illegal deductions as contended by the petitioner-applicant. Rule 15 of the Rules specifically empowers the department to recover and adjust the dues payable by the petitioner out of the amount payable to him. Therefore, no exception can be taken to the order of the learned Tribunal insofar as it refused to grant relief to the petitioner.

8. However, we find some considerable force in the contention of Sri Ramachandra Rao that the department ought to have paid interest at a reasonable rate on the delayed payment of admitted gratuity. Admitted gratuity is Rs. 41,976/- and after deducting a sum of Rs. 19,158/- due to the department, the balance would be Rs. 22,818/-. It is admitted fact that out of Rs. 22,818/- only a sum of Rs. 11,067/- was paid on 6.5.1996 and the balance of Rs. 11,751/- on 15.1.1997. At this stage itself, it should be noted that even according to the department the petitioner vacated the official quarter on 25.11.1995. Even assuming that the limitation specified under Sub-rule (1) of Rule 87 of the Rules would start to run immediately after the expiry of three months from 25.11.1995, i.e., with effect from 25.2.1996, we do not find any weighty or satisfactory ground or reason on the part of the department not to grant interest envisaged in Sub-rule (2) of Rule 87 of the Rules as regards delayed payments. The cause sought to be shown by the learned Standing Counsel for the Railways at the time of hearing could not be a good and valid ground to deny interest to an employee. It is not that the Supreme Court delivered the judgment after the petitioner retired on 30.11.1994. The judgment was handed down by the Supreme Court well before the petitioner retired on attaining the age of superannuation. Simply because there was administrative delay in granting notional increments in terms of and as a consequence of the judgment of the Supreme Court, that circumstance itself could not be put against the retired employee to deny him interest to which he is entitled under Rule 87(2). Therefore, we think it just and fair on the part of the railway administration to pay interest to the petitioner employee on the delayed payment.

9. In the result, we partly allow this writ petition and direct the respondents to pay interest at the rate of 12% per annum on a sum of Rs. 22,818/- for the period from 25.2.1996 to 6.5.1996 and at the same rate of interest on a sum of Rs. 11,751/- for the period from 7.5.1996 to 15.1.1997, within a period of one month from the date of receipt of a copy of this order. In the facts and circumstances of the case, the parties shall bear their own costs.

