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**(1996) 10 SC CK 0037**

**In the Supreme Court Of India**

**Case No : Civil Appeal No. 13220 of 1996**

Union of India (UOI)

APPELLANT

Vs

Ujagar Lal

RESPONDENT

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**Date of Decision : 07-10-1996**

**Acts Referred:**

**Citation :** (1996) 8 AD 665 : (1997) 75 FLR 1 : (1996) 10 JT 42 : (1997) 2 LLJ 981 : (1996) 8 SCALE 3 : (1996) 11 SCC 116 : (1997) SCC(L&S) 473 : (1996) 7 SCR 227 Supp : (1997) 1 UJ 408

**Hon'ble Judges :** K. Ramaswamy, J;G. B. Pattanaik, J

**Bench :** Division Bench

**Advocate :** P.P. Malhotra and B.K. Prasad, for the Appellant;

**Final Decision :** Allowed

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## Judgement

1. Though notice was sent to the respondent on May 8, 1992, till date neither the acknowledgment card nor unserved notice has been received back. Under those circumstances, notice must be deemed to have served.

2. Leave granted.

3. The only question argued in this appeal is: whether the respondent is entitled to the payment of interest for failure to released the death-cum-retirement gratuity under the rules? The Tribunal in the impugned order made on 22.11.1990 in O.A. No. 1383/90 directed interest @ 7% per annum for the first twelve months and @10% per annum for the period thereafter. The admitted position is that the respondent was unauthorisedly in occupation of the quarter allotted to him and, therefore, he was not paid death-cum-retirement gratuity since the respondent had remained in possession unauthorisedly for more than two years. This question was considered by this Court in Raj Pal Wahi and Ors. v. Union of India and Ors. SLP (C) Nos. 7688-91/88 decided on 27.11.1989 and held that in those circumstances, the Court unable to hold that the petitioners are entitled to get interest for the delayed payment of death-cum-retirement

gratuity as the delay in payment occurred due to the order passed on the basis of the said circular of Railway Board and not on account of administrative lapse. In this case, in view of the circular issued by the administration directing not to make payment of death-cum-retirement gratuity till the retired employee surrenders possession, the delay in payment was not due to any administrative lapse but on account of the circular issued by the Board. Under these circumstances, the respondent is not entitled to the interest as directed by the Tribunal.

4. The appeal is accordingly allowed. No costs.