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C.A.No. 5640 OF 1995

ITEM No.106

Court No. 7

SECTION XVI

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIAL APPEAL NO.5640 OF 1995

UNION OF INDIA APPELLANT(s)

VERSUS

KAMALA KANTA TEWARI (DEAD) THR. HIS LRSRESPONDENT(s)
(with office report)

Date : 27/03/2003 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DORAISWAMY RAJU
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Appellant(s)Mr. S Wasim A Qadri, Adv. for
Mrs. Anil Katiyar, Adv.

For Respondent(s)Mr. HK Puri, Adv.

UPON hearing counsel the Court made the following

O R D E R

Mr. SWA Qadri, learned counsel for the appellant started his argument at 3.00 p.m.and concluded at 3.15 p.m. Thereafter Mr. HK Puri, learned counsel for the respondent replied for some time. The appeal is partly allowed in terms of the signed order. No costs.

(D.L. Chugh)(Mithlesh Raghav)
Court MasterCourt Master

singed order is placed on the file

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5640 OF 1995

UNION OF INDIAAPPELLANT(S)

VERSUS

KAMALA KANTA TEWARI (DEAD) THR. HIS LRSRESPONDENT(S)

O R D E R

The above appeal has been filed against the order of the Central Administrative Tribunal, Calcutta Bench dated 2-11-1994 in O.A. No.444 of 1991 whereunder the tribunal despite the fact that the deceased original respondent-railway employee having not vacated the quarters allotted to him inspite of the his superannuation on 1-10-1987 has directed not only the disbursement of the death-cum-retirement-gratuity (DCRG) money due to him but awarded interest at the rate of 10% p.a. from three months after the date of retirement till the date of judgment.

Heard the learned counsel on either side.

Relying upon the decision of this Court reported in Union of India vs. Ujagar Lal (1996 (11) SCC 116) and Wajir chand vs. Union of India and others (2001 (6) SCC 596) it was vehemently contended by the learned counsel for the appellant that as long as the quarters allotted has not been vacated after superannuation, when he lost the right to occupy and continue in possession of the quarters it was not right for the tribunal to have allowed, interest on the delayed payment. We are of the view that though the award of interest could not be justified in such circumstances, no exception could be taken to the direction made to pay the DCRG amount due to the employee which cannot be withheld indefinitely for such reasons. In that view of the matter we modify the order only to the extent it directed the payment of 10% interest but in other respects the order will stand. If the amount due to the respondent has not already been paid it shall be paid within 60 days from today. Since the respondent has died the direction relating to the issue of complimentary passes has outlived its utility and ceased to be of any consequence. The appeal is accordingly, partly allowed in the above terms. No costs.

.....J.
(DORAISWAMY RAJU)

.....J.
(D.M. DHARMADHIKARI)

NEW DELHI,
MARCH 27, 2003