

**Government of India/Bharat Sarkar
Ministry of Railways(Rail Mantralaya)
(Railway Board)**

No. F(E)III/2000/PN1/57

New Delhi,

Dated 23 -09-2004.

**The General Managers & FA&CAOs,
All Zonal Railways & Production Units.**

**Sub:- Payment of gratuity to Government/Railway Servants
retired during the period from 01/07/1993 to 31/03/1995.**

In continuation of Railway Board's letter of even number dated 15.06.2004 on the above mentioned subject, it is informed that, as per the interim order dated 27.07.2004 passed by the Hon'ble Supreme Court in CA No. 129 of 2003 (earlier SLP No. 18367/2002) – State of Punjab & others V/s Amar Nath Goyal & Others, the Writ Petition filed before Bombay High Court against CAT/Mumbai Full Bench Judgment dated 21/09/2001 in O.A. Nos. 542, 942 and 943 of 1997 filed by B.S. Dhuri & others, stands transferred to the Supreme Court for final disposal. A Copy of Supreme Court's order is enclosed.

It is, therefore, desired that the above order of Hon'ble Supreme Court may be brought to the notice of the different Tribunals/High Courts where the cases on the above mentioned subject are pending, with a request to dispose of O.As/W.Ps.subject to outcome of the Petitions pending before the Supreme Court.

Please acknowledge the receipt.


(S.SREERAM)
Dy. Director, Finance (Estt.)III,

**Copy to :- EDPC-I, DPC, EDV(E), DS(D), EDE(Res), EDE, JS(G), JS(E), E(G),
ERB-I, II, III, E(O)I, II, III and (CC), PC-III. IV, V, E(P&A)I, II.**

भारत सरकार
रेल मंत्रालय (रेलवे बोर्ड)

सं. एफ (ई) III/2000/पी एन 1/57

नई दिल्ली, दिनांक 23-9-04

महाप्रबंधक और विस एवं मुलेधि,
सभी भारतीय रेलें एवं उत्पादन इकाइयां.

विषय - 1.7.93 से 31.3.95 के अवधि के दौरान सरकारी/रेल कर्मचारियों को ग्रेच्युटि का भुगतान करना.

उपर्युक्त विषय पर रेलवे बोर्ड के 15.6.2004 के समसंख्यक पत्र के क्रम में, यह सूचित किया जाता है कि 2003 के सी ए सं. 129 (पूर्व में विशेष अनुमति याचिका सं. 18367/2002)- पंजाब राज्य तथा अन्य बनाम अमरनाथ गोयल तथा अन्य में माननीय सर्वोच्च न्यायालय द्वारा पारित 27.7.2004 के अंतरिम आदेश के अनुसार, बी.एस.धूरी तथा अन्य द्वारा दायर 1997 के मूल आवेदन सं. 542, 942 और 943 में केंद्रीय प्रशासनिक अधिकरण/मुंबई की पूर्ण न्यायपीठ के 21.9.2001 के निर्णय के विरुद्ध बंबई उच्च न्यायालय के समक्ष दायर की गई रिट चायिका को अंतिम निपटान के लिए सर्वोच्च न्यायालय को अंतरित किया गया है। सर्वोच्च न्यायालय के आदेश की प्रतिलिपि संलग्न है।

अतः यह अपेक्षा की जाती है कि माननीय सर्वोच्च न्यायालय का उपर्युक्त आदेश विभिन्न अधिकरणों/उच्च न्यायालयों, जहां उपर्युक्त विषय पर मामले लंबित हैं, के नोटिस में इस अनुरोध के साथ लाया जाए कि सर्वोच्च न्यायालय के समक्ष लंबित याचिकाओं के निर्णय के आधार पर मूल आवेदनों/रिट याचिकाओं का निपटान किया जाए।

कृपया पावती दें।

एस.श्रीराम
(एस.श्रीराम)

उपनिदेशक, वित्त (स्था.) III

C.A.No. 129 OF 2003

ITEM No. 102

Court No. 3

SECTION IV

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

Civil Appeal No.129 of 2003

STATE OF PUNJAB & ORS.

Appellant(s)

VERSUS

AMAR NATH GOYAL & ORS.

Respondent(s)

(With appln. for intervention and office report)

WITH

Civil Appeal Nos.132, 133, 1838, 1847 of 2003 & 902 of 2004

(With office report)

Special Leave Petitions (C) No.2947, 6652-6675, 6676-6696,

6697-6722, 6724-6747, 6748-6778, 6779-6810, 6811-6830, 6831-6854,

6855-6886 of 2003 & 12071-12072 of 2004

(With appln.(s) for c/delay in filing/refiling SLP and office report)

Date : 27/07/2004 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE Y.K. SABHARWAL

HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Appellant (s)- Mr. P.N. Misra, Sr.Adv.

State of Punjab: Mr. H.M. Singh, Adv.

Ms. Shabana Saifi, Adv.

Mr. Ranbir Yadav, Adv.

Mr. Kaushal Yadav, Adv.

Mr. Anil Hooda, Adv.

Ms. Naresh Bakshi, Adv.

For Respondent (s)

-UOI:

Mr. G.E. Vahanvati, S.G.

Dr. K.S. Chauhan, Adv.

Mr. V.K. Verma, Adv.

Mr. V.K. Burman, Adv.

Mr. M.P. Mittal, Adv.
Mr. Ashok Mahajan, Adv.
Ms. Sudha Gupta, Adv.
Mr. Mahabir Singh, Adv.
Mr. I.P. Singh, Adv.
Ms. Madhusmita Bora, Adv.
Mr. Gagandeep Sharma, Adv.
Mr. Dinesh Verma, Adv.
Ms. Suresh Kumari, Adv.
for Mr. A.P. Mohanty, Adv.
Mr. Gopal Prasad, Adv.
Mr. A.V. Palli, Adv.
Ms. Rekha Palli, Adv.
Mr. RS. Suri, Adv.
Mr. P.N. Puri, Adv.
Mr. Yash Pal Dhingra, Adv.
Mrs. Sarla Chandra, Adv.
Ms. Jaspreet Gogia, Adv.
Mr. DK. Garg, Adv.
Mr. Jagjit Singh Chhabra, Adv.
Mr. Dinesh Kumar, Adv.
Ms. Naresh Kumari, Adv.
Mr. AP. Mohanty, Adv.
Mr. Kuldip Singh, Adv.

UPON hearing counsel the Court made the following

ORDER

The Government of India, in terms of Office Memorandum dated 14th July, 1995, decided that Dearness Allowance as mentioned in the said O.M. shall be treated as Dearness Pay for reckoning emoluments for the purpose of retirement gratuity, death gratuity under Central Civil Services (Pension) Rules, 1972 in the case of central government employees who retired or died on or after 1st April, 1995. The Government of Punjab issued a circular dated 13th December, 1996 in respect of similar aspect of treatment of Dearness Allowance as Dearness Pay for reckoning emoluments for the purpose of retirement gratuity/death gratuity in the case of Punjab Government employees who retire or die on or after 1st April, 1995.

The circular insofar as it restricted the grant of benefit to those who retired on or after 1st April, 1995 was challenged in various petitions filed in the High Court of Punjab and Haryana. By judgment dated 3rd May, 2002, the High Court held that those employees who retired on or after 1st July, 1993 shall be entitled to the benefit of the circular dated 13th December, 1996. The judgment of the High Court is under challenge in this appeal (C.A.No.129/2003) and various other connected matters.

One of the matters that has been tagged with this bunch of cases is S.L.P.(C) Nos.12071-12072/2004. This matter is also listed for regular hearing but it appears that the respondent has not been served. In this S.L.P., the challenge of Union of India is to a decision of the High Court of Himachal Pradesh whereby a writ petition challenging the order of the Central Administrative Tribunal, Chandigarh Bench has been rejected and the writ petition dismissed. The Central Administrative Tribunal in the said case has decided in favour of the retirees, relying upon a Full Bench judgment of the Tribunal, Mumbai, dated 21st September, 2001 in the case of Baburao Shanker Dhuri & Ors. etc.etc. Vs. Union of India & Ors., noticing that though the writ petition against the order of the Full Bench of the Central Administrative Tribunal was pending in the Bombay High Court but no stay had been granted. The Full Bench of the Central Administrative Tribunal has directed that those who retired between 1st July, 1993 and 31st March, 1995 are entitled to the benefit of the scheme of merger of 97% Dearness Allowance in the pay for purpose of calculating death/retirement gratuities.

The position that emerges from the aforesaid facts is that the challenge of Union of India to the aforesaid Full Bench decision of the Central Administrative Tribunal is pending before the Bombay High Court. Simultaneously, following the Full Bench decision, the Bench of the Tribunal at Chandigarh has granted relief to the retirees. That order of the Tribunal has been upheld by the High Court of Himachal Pradesh. The decision of the Himachal Pradesh High Court is under challenge in S.L.P.(C) Nos.12071-12072/2004. The substantial ground on which Punjab Government adopted the date, 1st April, 1995, was on the basis of the O.M. dated 14th July, 1995 which is the subject matter of Civil Appeal No.129 of 2003 and other connected matters decided by High Court of Punjab & Haryana.

In view of the aforesaid position, firstly, it would be appropriate if the S.L.P. above-referred is heard simultaneously with Civil Appeal No.129/2003. The petitioner-Union of India in this S.L.P. and other connected petitions shall take immediate steps to serve respondents for which purpose dasti notice in addition be also given.

The learned Solicitor General makes an oral application for transfer of Writ Petition pending in the Bombay High Court to this Court. Having regard to the entire controversy, we are of the view that this is the proper course to follow. It would be expedient to transfer pending writ petition from Bombay High Court to this Court so that all matters on similar question are finally determined. The particulars of the matter/matters pending in the Bombay High Court be supplied

in the Registry within two days. On the same being filed, the writ petition/s pending in the Bombay High Court shall stand transferred to this Court. On receipt of the papers from the High Court, notices shall be issued to the parties concerned in those cases and their respective counsel.

List for directions after four weeks.

(N. Annapurna)

Court Master

(V.P. Tyagi)

Court Master