

SUPREME COURT OF INDIA

Union of India

Vs.

Shri Ujagar Lal

(K Ramaswamy and G Pattanaik JJ.)

07.10.1996

ORDER

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. Leave granted.

The only question argued in this appeal is: whether the respondent is entitled to the payment of interest for failure to release the death-cumretirement gratuity under the Rules? The Tribunal in the impugned order made on 22.11.1990 in OA 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 & Ors. vs. Union of India & 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 or 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. The appeal is accordingly allowed. No costs.

