

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : BILASPUR

Original Application No.203/00297/2016

Bilaspur, this Monday, the 18th day of November, 2019

HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER
HON'BLE MR. B V SUDHAKAR, ADMINISTRATIVE MEMBER

Gopal Prasad Jaiswal, S/o Shri Trilochan Prasad Jaiswal, aged about 63 years, R/o Asin Kaliram Kunj, Kalyan Bag, Rajkishornagar, Police Station – Sarkanda, Distt. – Bilaspur (C.G.) – 495001
-Applicant

(By Advocate – Shri Vikrant Pillai)

V e r s u s

1. Bharat Sanchar Nigam Limited (A Government of India Enterprise), through the Chief Managing Director, Bharat Sanchar Nigam Limited, Corporate Office – Personnel (Pers-DPC) Section, 4th Floor, Bharat Sanchar Bhawan, Janpath, New Delhi – 1, PIN – 110001.

2. The Chief General Manager Telecom, Bharat Sanchar Nigam Limited, Chhattisgarh Circle, Vidhan Sabha Road, Khamardih, Raipur (C.G.) – 492007.

3. The General Manager Telecom District, Bharat Sanchar Nigam Limited, Bilaspur (C.G.) – 495001.

4. The Assistant General Manger (Admn/Hr), O/o General Manager Telecom District, Bharat Sanchar Nigam Limited, Bilaspur (C.G.) – 495001
-Respondents

(By Advocate – Shri Sandeep Dubey)

O R D E R (O R A L)

By Ramesh Singh Thakur, JM.

This Original Application has been filed by the applicant
challenging the letter dated 16.09.2014 (Annexure A-9),

whereby claim of the applicant for interest on delayed payment of leave encashment has been rejected.

2. The applicant has, therefore, sought for the following reliefs:

“8.1 The Hon’ble Tribunal may kindly be pleased to call for the entire records pertaining to this case from possession of the respondents for it’s kind perusal.

8.2 The Hon’ble Tribunal may kindly be pleased to pass/issue suitable order and quash/set aside the letter dated 16.09.2014 (Annexure A/9) issued by the respondent No.4 to the extent the claim of the applicant for interest on delayed payment of the amount of leave encashment has been rejected in substance;

8.3 The Hon’ble Tribunal may kindly be pleased to issue direction commanding the respondent authorities to make payment of interest to the petitioner for delayed payment of the amount of leave encashment.

8.4 Any other relief, which this Hon’ble Tribunal may deem fit and proper, may also be passed in favour of the applicant;

8.5 Cost of this application may kindly be awarded.”

3. Brief facts of the case, as projected in the Original Application, are that the applicant, on attaining the age of superannuation, provisionally retired on 30.11.2012 (Annexure A-1), while working on the post of Sub Divisional Engineer with the respondent department. He was issued with a charge sheet under Rule 36 of BSNL (CDA) Rules, 2006 on the same

date. The respondent department has issued Office Order dated 30.11.2012 (Annexure A-7), so far as relates to the applicant, for grant of provisional pension and withholding of commuted value of pension and the amount of DCRG till conclusion of the disciplinary case. Ultimately, on 08.04.2014 (Annexure A-5), the applicant was exonerated from the charges vide order dated 08.04.2014 (Annexure A-5). Thereafter, vide memo dated 29.04.2014 (Annexure A-6), the applicant was paid Rs.3,25,000/- towards the amount of leave encashment.

3.1 The applicant submits that the amount of leave encashment was kept withheld without any reason. The applicant filed several representations for interest on delayed payment of the amount of leave encashment. However, the respondents, vide communication dated 16.09.2014 (Annexure A-9), have informed that there is no provision for giving interest on delayed payment of the amount of leave encashment.

4. The respondents, in their reply, have submitted that Annexure A-9 is not an order. It is only a correspondence between the applicant and the respondent No.4, wherein the applicant was informed that there is no provision for interest on delayed payment of leave encashment. However, he was asked

to produce any rules/circulars, which provide for interest on delayed payment of leave encashment. The applicant, instead of providing the same, has directly approached this Tribunal.

4.1 It has been further submitted by the respondents that as per CCS (Leave) Rules, 1972, the Department of Personnel and Training (Telecommunication Department) in their note dated 02.08.1999, has clarified that there is no provision under CCS (Leave) Rules for payment of interest or fixing responsibility. Moreover, encashment of leave is a benefit granted under leave rules and is not a pensionary benefit. Further, on conclusion of the disciplinary proceedings, the applicant was granted leave encashment. Since the rules do not provide for interest on delayed payment of leave encashment, no interest is payable on the same.

5. We have heard the learned counsel for the parties and perused the pleadings and the documents available on record.

6. The contention of the applicant is that as per Annexure A-7 dated 30.11.2012, only DCRG and Commuted Value of Pension were ordered to be withheld till the conclusion of the vigilance/disciplinary case. Since there was no order for withholding of any other amount, i.e. leave encashment, there

was no justification for withholding the amount of leave encashment and, therefore, the applicant is entitled for the interest on delayed payment for the same.

7. Learned counsel for the applicant placed reliance on a decision of Principal Bench of this Tribunal in Original Application No.1014/2011 dated 19.07.2011 (**Smt. Raman Munjal vs. Govt. of NCT & others**), wherein it has been held by the Principal Bench that, the Hon'ble Supreme Court in the case of **S.R. Bhanrale vs. Union of India and others** (1996) 10 SCC 172 and **Vijay L. Mehrotra vs. State of U.P & Ors.**, JT 2000 (5) SC 171 has granted interest on the amount of terminal benefits, which included leave encashment also. The relevant Para 5 of the order reads as under:

“7. As far as the claim of the applicant for enhancement of interest already on the amount of gratuity is concerned, I find that the respondents have allowed interest at the rate applicable to GPF deposits under Rule 68 of CCS (Pension) Rules and therej is no justification to enhance the same. As is noted above, the issue of interest on leave encashment is covered by the decisions of the Hon'ble Supreme Court. Being bound by the said judgments of the Hon'ble Supreme Court, I direct the respondents to grant interest to the applicant on the amount of leave encashment for the period from 01.09.2002 to 17.07.2007 at the rate of 8% per annum within a period of two months from the date of receipt of a copy of this order.

8. In the instant case, if the Annexure A-7 is seen, there is no order regarding withholding of leave encashment and it only

speaks about withholding of DCRG and Commuted Value of Pension. Thus, withholding of leave encashment from the retiral dues of the applicant is not justified and the applicant is entitled for interest on the delayed payment of leave encashment in view of the findings given by the Principal Bench of this Tribunal in the case of **Smt. Raman Munjal** (supra).

9. Resultantly, the Original Application is allowed. The respondents are directed to grant interest to the applicant on the amount of leave encashment at the rate of 8% per annum from the date of withholding of the same till the date of its actual payment, within a period of two months from the date of receipt of a copy of this order. No order as to costs.

(B V Sudhakar)
Administrative Member

(Ramesh Singh Thakur)
Judicial Member

am/-