

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.
OA/050/00344/2020 [VC]

Date of order : 08.10.2020

C O R A M

Hon'ble Shri M.C.Verma, Member [Judicial]
Hon'ble Shri Sunil Kumar Sinha, Member [Administrative]

Chitranjan Prasad Sinha, son of Late Munshi Prasad, Ex Divisional Engineer, Bharat Sanchar Nigam Limited, Bihar Telecom Circle, Patna, resident of Prakash Deep Enclave, Flat No. D.J. – 301, Ashiyana - Digha Road, District – Patna – 800014 [Bihar].



..... Applicant.

By advocate : Shri M.P.Dixit

Vs.

1. The Bharat Sanchar Nigam Limited through the Chief General Manager, Bharat Sanchar Nigam Limited, Bihar Telecom Circle, Budh Marg, Patna – 800001 [Bihar].
2. The General Manager [Finance, Bharat Sanchar Nigam Limited, Patna – 800001 [Bihar].
3. The Deputy Director General [Accounts], Ministry of Communication, Government of India, Sanchar Bhawan, 20, Ashoka Road, New Delhi- 110001.
4. The Director [Estt.]-II, Ministry of Communication, Government of India, Sanchar Bhawan, 20, Ashoka Road, New Delhi – 110001.
5. The Controller of Communication Accounts, Department of India, CCA Building, Budh Marg, 1st Floor, Patna – 800001.

..... Respondents

Counsel for the respondents : Shri K.P.Narayan
Shri Radhika Raman

ORDER [ORAL]

Per M.C.Verma, Member [Judicial] : Heard. Prayer as has been made in Para 8 of the OA is for direction to the respondents to release the interest amount of Gratuity. The applicant has annexed extract of Rule 68 of CCS Pension Rules concerning the payment of interest for delay in payment of Gratuity.

2. The OA is at notice stage hearing. Ld. Counsel, Shri M.P. Dixit Advocate, appearing for the applicant submitted that before thirteen days, prior to his superannuation a departmental proceeding was initiated against the applicant, applicant superannuated on 31.01.2017 and he was not paid Gratuity. That applicant was exonerated from the charges on 04.09.2019 and thereafter was paid DCRG but no interest for delayed payment of Gratuity was made.



3. Mr. Dixit contended that sanction for payment of Gratuity, of Pension & Pension commutation and interest on delayed payment of Gratuity was conveyed vide order dated 26.10.2019 (Annexure A/3 in the OA) and referring Annexure A/3 he emphasized that sanction for payment of interest on delayed payment of Gratuity has been sanctioned, however, it is not being paid for the reasons best known to the respondents.

4. Attention of Mr. Dixit was invited to Annexure A/4, particularly to its content whereby Deputy CCA of Department of Telecommunication has written to the Under Secretary, Government of India, Sanchar Bhawan, New Delhi to issue sanction for Rs.3,91,869/- towards interest for delayed payment of Retirement Gratuity as well Annexure A/5, letter dated 26/02/2020 of the applicant addressed to the Under Secretary, Government of India wherein applicant himself has requested for grant of sanction for payment of interest and it was inquired from learned counsel as to how in said backdrop it can be said that sanction has been accorded by the competent authority for the interest on delayed payment of Gratuity and learned counsel for applicant

submits that applicant was an employee of BSNL and therefore, GM of BSNL is the competent authority. He reiterates that sanction has already been granted and it is evident from Annexure A/3 and no further sanction is required.



5. Learned counsel, Shri K.P.Narayan Advocate appearing for the Resp. BSNL urged that the applicant previously was an employee of Department of Telecommunication (DOT) and after creation of BSNL, he was absorbed in the BSNL so a decision on interest, on delayed payment of Gratuity would need to be taken and that Secretary of the Ministry or the Department is competent to sanction the interest on delayed payment of Gratuity. Shri Radhika Raman Advocate appearing for the Resp. DOT refers Rule 68 (2) of the CCS Pension Rules (supra) and Govt. decisions, extract of which has been annexed with OA by the applicant and urged that the gratuity become due on conclusion of departmental proceedings and in case of exoneration, it is the Secretary of the Ministry or the Department who is competent to sanction the interest on delayed payment of Gratuity. That a decision on interest on delayed payment of Gratuity would need to be taken by the Department of Telecommunication. He concluded that GM is not the competent Authority to accord sanction for payment of interest.

6. Considered the submissions made at bar in given scenario, discussed above. Rule 68 (2) of CCS (Pension) Rules, relating to the interest on delayed payment of Gratuity, reads : "*68 (2) Every case of delayed payment of gratuity shall be considered by the Secretary of the*

Administrative Ministry or the Department in respect of its employees and the employees of its attached and subordinate offices and where the Secretary of the Ministry or the Department is satisfied that the delay in the payment of gratuity was caused on account of administrative lapse, the Secretary or the Ministry or the Department shall sanction payment of interest."



7. The main issue, as emerged in this OA is whether sanction for payment of interest, on late payment of Gratuity has been accorded by the competent authority? Mr. Dixit has contended that sanction for payment of interest has been given by the competent authority and according to Respondent's the Secretary of the Ministry or the Department is competent to sanction the interest on delayed payment of Gratuity and that GM is not the competent Authority to accord sanction for payment of interest. At the time of his retirement departmental proceeding against the applicant was pending and hence Gratuity become due only after his exoneration from the charges and therefore late payment was there. The case has been posed by applicant's counsel merely that of interest on delayed payment of Gratuity (DCRG) but it is not the case of delay simplicities in payment.

8. Annexure A/4 , dated 26th February, 2020 reveals that Deputy CCA of Department of Telecommunication has written to the Under Secretary, Government of India, Sanchar Bhawan, New Delhi to issue sanction for Rs.3,91,869/- towards interest for delayed payment of Retirement Gratuity. Annexure A/5 is the letter dated 26/02/2020 of the

applicant, addressed to the Under Secretary, Government of India and applicant through this letter has also requested for grant of sanction for payment of interest. It thus appears that still issue of sanction for payment of interest is lying pending. It was enquired from Respondent's counsel as to with whom presently the matter for consideration for sanction is pending and how much time will it take but learned counsel for respondents requests for time to take instruction from the respondents.



9. As per OM No. 1[4]/Pen. Unit/82, dated the 10th January, 1983, where disciplinary or judicial proceedings against a Government servant are pending on the date of his retirement, no gratuity is paid until the conclusion of the proceedings and the issue of the final orders thereon. The gratuity, if allowed to be drawn by the Competent Authority on the conclusion of the proceedings will be deemed to have fallen due on the date of issue of orders by the Competent Authority. Said OM also provides that to mitigate the hardship to the Government servants who, on the conclusion of the proceedings are fully exonerated, it has been decided that the interest on delayed payment of retirement gratuity may also be allowed in their cases, in accordance with the aforesaid instructions. In other words, in such cases, the gratuity will be deemed to have fallen due on the date following the date of retirement for the purpose of payment of interest on delayed payment of gratuity. The benefit of these instructions will, however, not be available to such of the Government servants who die during the pendency of

judicial/disciplinary proceedings against them and against whom proceedings are consequently dropped.

10. Taking note of the entirety it appears in interest of justice to dispose of this OA, at this stage of notice hearing itself, with appropriate direction to the respondents. Thus respondents are directed to refer the case, within two weeks from the date of receipt of copy of this order, to the competent authority, if has not already referred, for consideration and take decision for payment of interest and the competent authority is directed to take decision at the earliest possible, about payment of interest of delayed period on amount of Gratuity.



11. The OA is disposed of accordingly with no order as to costs. Pending MA, if any also stand disposed of in terms of disposal of OA.

Sd/-

Sd/-

[Sunil Kumar Sinha]
Member [Admn.]

[M.C.Verma]
Member [Judicial]

PKL/-