

**Central Administrative Tribunal
Principal Bench**

OA No.650/2021

New Delhi, this the 23rd day of March, 2021

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A. K. Bishnoi, Member (A)**

S. S. Chauhan
R/o H. No.215, Sector-8,
Faridabad, Haryana

... Applicant.

(By Advocate : Shri Sanjay Kumar)

Versus

1. Union of India
Through its Secretary
Department of Revenue
Ministry of Finance,
North Block, New Delhi.
 2. The Chairman
Central Board of Indirect Taxes & Customs
Ministry of Finance, North Block,
New Delhi 110 001.
 3. The Chief Commissioner of GST & Central Excise
Delhi Zone (Cadre Control)
C R Building, IP Estate,
New Delhi 110 002.
 4. The Commissioner
Goods & Service Tax, Faridabad
New CGO Complex,
NH-IV, Faridabad.
- ... Respondents.

: O R D E R (ORAL)_ :

Justice L. Narasimha Reddy, Chairman

The applicant retired from the service as Superintendent of Central Excise and Customs on 31.07.2012. One day before his retirement, he was issued a charge memo. On

account of that, his retirement benefits were withheld, even while the provision pension was sanctioned.

2. The applicant filed OA No.420/2013 challenging the charge memo. The OA was allowed on 13.03.2014. Writ Petition No.6108/2014 filed by the respondents against the order of the Tribunal was dismissed on 06.12.2017. Thereafter, the respondents paid the Gratuity, Leave Encashment, differential amount of Gratuity between April and June, 2018. He filed this OA with a prayer to direct the respondents to pay him 8% interest on the delayed release of various components of retirement benefits with effect from 31.07.2012. Reliance is placed upon an order passed in OA No.1679/2016 on 09.05.2018.

3. The applicant contends that once the charge memo was set aside by the Hon'ble Tribunal and upheld by the Hon'ble Delhi High Court, its effect has to be removed and the interest becomes payable.

4. We heard Shri Sanjay Kumar, learned counsel for the applicant at the stage of admission.

5. The only relief claimed in this OA is the one of payment of interest. It is fairly well settled that any writ petition or OA cannot be maintained exclusively for the purpose of payment of interest. It is only when a Court or Tribunal passed an order directing payment of certain amount, then the directions as to the interest thereon, are issued. Independently, payment

of interest cannot constitute the subject matter of adjudication. Further, it is not, as if, the withholding of the pensionary benefits of the applicant was without any basis. Rule 69 of the CCS (Pension) Rules, 1972, mandate that wherever an employee is (a) placed under suspension; (b) faced departmental proceedings or (c) faced criminal proceedings, as on the date of retirement, he shall be paid only the provisional pension and other benefits are liable to be withheld. The immediate preceding Rule, namely, Rule 68 of Pension Rules provides for payment of interest on delayed payment of gratuity. Rule 69 is an exception for that. As long as the disciplinary or criminal proceedings were pending, the occasion to release the pensionary benefits does not arise. Further, if there was absolutely no justification for initiation of disciplinary proceedings at all, it is only for the concerned Court which dealt with the charge sheet or criminal cases to pass appropriate orders, as regards payment of interest also.

6. It is true that in OA No.1679/2016, a Learned Member sitting singly directed payment of interest to an employee whose retirement benefits were delayed on account of the pendency of disciplinary proceedings. However, no discussion was undertaken with reference to the provisions of law. The entire discussion is contained in Paras 3 & 4. It reads as under:-

“4. In the conspectus, I am of the view that the applicant is entitled for receiving interest at reasonable rate. I also take into consideration that in the normal course, it would have taken a maximum period of three months to crystallize various retiral claims of the applicant. Hence, I hold that the applicant is entitled for receiving interest for any delay that has occurred beyond three months of his retirement.

5. Accordingly, I allow this OA in the following terms:

Respondents are directed to pay interest @8% on the delayed release of various components of retiral benefits beyond a period of three months from the date of his retirement, i.e., w.e.f. 01.10.2012. This shall be done within a period of two months from the date of receipt of a copy of this order.”

The OM dated 05.10.1999 issued by the Central Government, does not deal with the cases of withholding of pension on account of the pendency of disciplinary and criminal proceedings. We are of the view that the order in OA No.1679/2016 does not lay down the correct proposition of law.

7. We do not find any merit in the OA. It is accordingly dismissed. There shall be no order as to costs.

(A. K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/Joshi/