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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.225/2012

Jodhpur, this the 26th day of August, 2013

CORAM

Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J),

Manchha Ram Chauhan S/o Shri Deva Ramji, aged about 61 years,
R/o Manpura Colony, Jalore, District Jalore, last employed on the
post of Assistant General Manager in the office of GMTD, BSNL,
Sirohi.

.....Applicant

Mr. J.K. Mishra, counsel for applicant.

Versus

1. Bharat Sanchar Nigam Ltd, through its Chairman & Managing Director, Corporate Office, Bharat Sanchar Bhawan, Harish Chandra Mathur Lane, Janpath, New Delhi-110001.
2. Controller of Communication of Accounts, Government of India, Rajasthan Telecom Circle, Institutional Area, Jhalana Doongri, Jaipur-302004.
3. General Manager Telecom District Sirohi, District Sirohi.
4. The Assistant General Manager (HR & Admn.), Office of GMTD, Sirohi.

.....Respondents

**Mr. Pramod Prajapat, proxy counsel for
Mr. V.D. Vyas, counsel for respondents No.1,3&4.
None present for respondent No.2.**

ORDER (Oral)

By way of this application, applicant Shri Manchha Ram Chauhan, has sought the following reliefs:-

- (i) *That the respondents may be directed to grant and pay interest at market rate, on the delayed payment of Pension (i.e. pension arrears for eight months) and on the amount of DCRG, to the applicant, within a specified period.*
- (ii) *That any other direction or orders may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.*
- (iii) *That the costs of this application may be awarded. The respondents may be imposed heavy penalty and the same be paid to applicant."*

2. The necessary facts required for the adjudication of this application are that the applicant was initially appointed to the post of Junior Engineer in P&T Department on 26.05.1975. He was lastly promoted as Assistant General Manager in the year 2002 and was observed in the BSNL Department. On attaining the age of superannuation, the applicant superannuated on 31.07.2011 and became entitled to get pension and other retiral benefits i.e. pension, commutation of pension amount, DCRG, GPF, leave encashment etc., from the date of his retirement i.e. 01.08.2011. But the respondents at the time of his retirement only paid the amount of leave encashment and GPF to the applicant. It is averred that the respondent No.2 was not provided the duly completed papers as asked for the same vide letter dated 07.09.2011 and thus the delay has been caused in finalization of pension paper, which is sole responsibility of BSNL. The respondent No.4 i.e. Assistant General Manager (HR & Admn), Office of GMTD, Sirohi, did not facilitate with the complete information to respondent No.2 and later had to again made query and asked for remaining details vide letter dated 25.01.2012. Thereafter the respondent No.2 again

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reminded the same vide letter dated 16.03.2012. The applicant also submitted a representation in the month of March, 2012 and requested for early release of his retiral dues. However, vide letter dated 22.03.2012, the applicant was sanctioned the DCRG amounting to Rs.10,00,000/- and commutation of pension amount i.e. Rs.8,91,442/- and PPO has also been issued vide letter dated 23.03.2012. The superannuation pension for the period from 01.08.2011 to 22.03.2012 has also been sanctioned and thereafter monthly pension is being paid. The applicant, therefore, by way of this application has prayed for interest at market rate for the delayed payment.

3. The respondent No.2 filed a separate reply and a joint reply on behalf of the respondents No.1,3&4 has also been filed. The respondent No.2, in his reply averred that in the office of respondent No.2 the pension papers were received on 31.08.2011. The pension papers were scrutinized by his office and on being found some shortcomings/lacunae, the same were forwarded to the respondent No.4 on 07.09.2011. Thereafter the same were received back from the respondent No.4 on 21.03.2012. But earlier to that, three reminders have been sent by the office of respondent No.2 to the respondent No.4 and soon after getting the complete pension set all dues were sanctioned by the respondent No.2 on 22.03.2012 and

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PPO was issued on 23.03.2012. It has been averred that as per GID 5(2) under Rule 68 of CCS Pension Rules, 1972 no interest on pension payment is payable. It has been further averred that the applicant being a Group 'A' officer should have arranged and would have removed pay fixation irregularity prior to his retirement, but he did not do so. He has not submitted his pension papers before 6 months of his retirement, therefore, no interest is payable on the basis of delay in sanctioning the payment of pension and other retiral benefits.

4. The respondents No.1,3&4 by way of joint reply have averred that applicant himself has produced required Form-5 on 28.07.2011. It has been further averred that Rule 61 of CCS (Pension) Rules, 1972 casts duty on the Head of Office to forward the pension papers of retiring person along with Forms 5 and 7 to the Accounts Office, not later than six months before the date of retirement of the Government Servant. The Head of Office is duty bound to forward the pension papers of the retiring person to the Accounts Officer under Rule 61, only after receiving Form 5 from the retiring person under Rule 59 (iii) of CCS (Pension), Rules. It has been further averred that when the applicant himself has failed to comply with the provision of Rules 61 and 59 of the CCS (Pension) Rules, no question of interest arises. The applicant

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himself has failed to comply with the procedure for processing his pension papers, therefore, no case is made out for granting any interest for the delayed payments to the applicant.

5. By way of rejoinder, the applicant while reiterating the same facts averred that all the papers were available in the service book of the applicant and he was never granted any wrong pay fixation and any endure to blame the delay on the part of the applicant, is not correct.

6. Heard both the counsels. Counsel for the applicant contended that Form-5 has not been provided to the applicant in time, therefore, he could not file the pension set before 28th July, 2011, and it was the duty of the Head of Department to provide Form 5 and 7 in time to the applicant and any failure on the part of the respondent No.4 to provide such forms not in time amounts to cause the delay in making the payment of the pensionary benefits in time. Further, although the applicant was a Senior Officer in the office of the respondent No.4 but no Form 5 & 7 have been provided to him for completing the formalities of the pensionary benefits, therefore, the applicant is entitled to get the interest at the market rate.

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7. Per contra, counsel for the respondents contended that the applicant submitted his Form-5 on 28.07.2011 and he was being a Senior Officer holding the post of Assistant General Manager, Office of GMTD, Sirohi, could have filed the Forms-5 & 7 in time as per Rule 61, but he failed to submit the complete pension papers in time, therefore, his matter could not be processed before 6 months of his superannuation. Thus, the sole responsibility cannot be fastened on the respondents, and the applicant himself is equally responsible for delay. Counsel for the respondents further contended that inordinate delay can not be said to have caused by the respondents without any reasonable cause, therefore, the applicant is not entitled to any interest. He further contended that where there is a fact of contributory negligence on the part of both the parties, the interest ought not to have been granted in favour of the applicant.

8. I have considered the rival contentions of both the parties and also perused the relevant documents available on record. It is admitted fact that the applicant has filed his pension set on 28.07.2011 and he superannuated on 31st July, 2011. It is also an admitted fact that at the time of his superannuation, he was working as Assistant General Manager in the office of GMTD, BSNL, Sirohi, and looking to the status of the applicant, he could have

asked the concerned officer to provide Form 5 & 7 in time. Being in the senior position and well conversant with the relevant documents, he could demand the Form 5 & 7 in time. However, the applicant received the Form 5 & 7 in the month of May, 2011 and he submitted the same on 28.07.2011, therefore, contributory liability of the applicant himself cannot be denied and in the totality of the circumstances considering the relevant facts, I am of the considered view that applicant is not entitled to get any interest at the market rate and the application lacks merit and therefore, the OA is dismissed with no order as to costs.


(Justice K.C. Joshi)
Judicial Member