

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO.291/00496/2014

Date of Order: 31.5.2016

CORAM

Hon'ble Dr. K.B.Suresh, Judicial Member

Hon'ble Ms. Meenakshi Hooja, Administrative Member

K.P.Meena Son of Shri Bhajan Lal Meena, aged around 70 years, By-cast Meena, resident of 85, Lavkush Nagar -I, Tonk Phatak, Jaipur: Earlier working as Additional Commissioner, Income Tax, Jodhpur.

..... Applicant

(By Advocate Mr. Amit Mathur)

VERSUS

1. The Union of India, through its Secretary, Ministry of Finance, Department of Revenue, North Block, New Delhi.
2. The Chairman, Central Board of Direct Taxes, Ministry of Finance, Department of Revenue, North Block, New Delhi.
3. The Principal Chief Commissioner of Income Tax, Central Revenue Building, Janpath, Jaipur.

..... Respondents

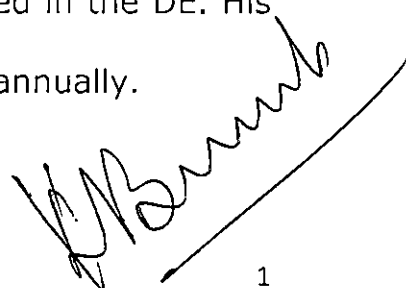
(By Advocate Mr. Gaurav Jain)

ORDER

(Per Dr. K.B. Suresh, Judicial Member)

Heard.

The applicant after retiring on superannuation on 31.12.2003 was not paid the gratuity and commutation of pension on account of pending Departmental Enquiry which took 9 years to conclude the matter after his superannuation and he was exonerated in the DE. His claim is for payment of interest @ 12% compounded annually.



Department would say in view of Rule 68 of CCS(Pension) Rules, the competent authority had approved the payment of interest as per the rate applicable on GPF. The applicant relied upon the decision of Hon'ble Delhi High Court, New Delhi in CWP No.5303/2008 decided on 11.11.2008 as under:-

"6. The order passed by the Tribunal was challenged by the Respondent before this Court and the challenge was rejected by an order dated 30th August, 2007 in WP (C) No.2207/2003. Unfortunately, this Court also overlooked the nature of the interest, whether simple or compound.

7. The Petitioner thereafter filed a contempt petition before the Tribunal in which he claimed that he was entitled to interest @ 12% per annum compounded and this was not paid to him. The Tribunal was of the view that in the absence of anything indicating whether the interest was simple or compound, the payment made by the Respondent at 12% simple interest was justified and, therefore, no contempt was made out.

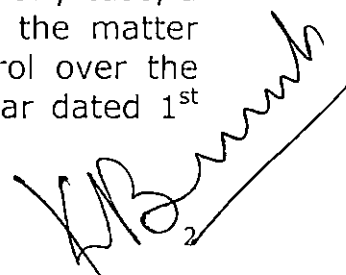
8. Feeling aggrieved by the Order of the Tribunal passed in contempt petition, the Petitioner has now come up before us.

9. In our view, the Petitioner is entitled to 12% interest compounded annually.

10. We may note that there is some dispute about the applicability of a circular dated 1st November, 1994 issued by the Ministry of Railways. Without going into the applicability of the Circular, we are of the opinion that the principle laid down therein is quite clear and generally applicable. The principle is that an employee would be entitled to 12% interest compounded annually in case there is delay in payment of death-cum-retirement-gratuity on account of administrative lapse or for reasons beyond the control of the Railway servant concerned.

11. In the case of that we are dealing with, there is no dispute that delay has not occurred on account of any administrative lapse. The respondent held back the amount due to the Petitioner because of the pendency of the criminal prosecution and it appears that they were justified in doing so. However, without going into this issue or expressing any opinion in this regard, we are of the opinion that the amount was certainly withheld by the Respondent for reasons beyond the control of the railway servant concerned, that is , the Petitioner in this case.

12. The Petitioner had no control over the complaint that was made against him by the Respondent nor had he any control over the criminal prosecution that was lodged against him. There is no dispute about the fact that the criminal prosecution of the Petitioner led to an acquittal which would suggest that the complaint made against the Petitioner was either not substantiated or was baseless. In any case, a complaint having been made against the Petitioner and the matter pending in a criminal court, the Petitioner has no control over the situation. Therefore, the principle laid down in the Circular dated 1st November, 1994 is applicable to this case.



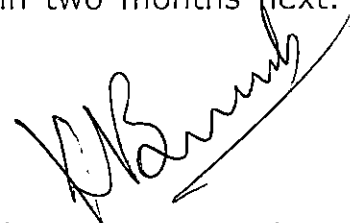
13. If the amount in dispute had been released to the Petitioner in time, he could surely have utilized the amount gainfully. The Respondents could also have protected the interest of the Petitioner by keeping the amount in a fixed deposit where the Petitioner could have earned interest on a compounded basis. The petitioner has been deprived of gainful utilization of the amount and the respondents have also not been of much help to the Petitioner by not depositing the amount in a fixed deposit with any scheduled bank or financial institution. On the other hand, the Petitioner is being made to run around for the interest on principal amount, which he feels is legitimately due to him.

14. In our opinion, having considered all these facts, particularly the fact that the dues of the Petitioner were paid after a great delay for reasons which were completely beyond his control, the Petitioner would be entitled to interest @ 12% compounded annually from the date when the amount became due to him till the date it was released to him, as mentioned above."

Therefore, we are in agreement with the judgment of Hon'ble High Court of Delhi. OA is allowed. Applicant be allowed the payment of interest @ 12% per annum compounded within two months next. OA allowed. No costs.



(MS. MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER



(DR. K. B. SURESH)
JUDICIAL MEMBER

Adm/