

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

OA No. 060/00615/2014

Date of decision: 07.09.2015

Coram: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)

Natha Singh son of Mula Singh, resident of E-639, Ranjit Avenue, Amritsar.

-APPLICANT

By Advocate: Shri Sanjeev Kumar vice Shri H.S. Batth

VERSUS

1. BSNL, through its C.M.D. Corporate Office, Bharat Sanchar Bhawan, Janpath, New Delhi.
2. Chief General Manager, Telecom, Punjab Circle, Sanchar Sadan, Plot No.2, Sector 34 A, Chandigarh.
3. General Manager, Telecom, Amritsar.

-RESPONDENTS

By Advocate: Shri D.R. Sharma and Shri K.B. Sharma

ORDER**Mr. Sanjeev Kaushik, Member (J):**

The short grievance of the applicant sought to be redressed through this Original Application pertains to grant of interest @18% on the delayed payment of gratuity.

2. The applicant herein, a former employee of the Department of Post and Telecommunication, who concededly got absorbed into the employment of BSNL with effect from 01.10.2000, came to be prosecuted in case FIR no.41 dated 26.07.2009 registered under Section 13 (1) (2) of Prevention of Corruption Act at PS, Vigilance Bureau, Amritsar. Charge in this case was framed on 16.03.2010 and the case is still pending. Pending criminal case applicant retired on attaining the age of superannuation on 31.01.2008. He was acquitted by the Special Judge vide judgment dated 21.03.2013. When the respondents did not release the retiral benefit, the applicant approached this Tribunal by filing OA no.764/PB/2011, which was disposed of vide order dated 05.07.2012. The said order was subject matter before the Hon'ble High Court of Punjab & Haryana in Civil Writ Petition no.24585-CAT/2013 (O&M), which was disposed of vide decision dated 21.05.2013, with a direction to the respondents to release gratuity of applicant, as he has been acquitted in the criminal case, within a period of three months.

When the respondents have not paid any interest on gratuity the applicant has filed the present Original Application, whereby sought direction to grant interest @18% in terms of Rule 68 of CCS (Pension) Rules, 1972. It is his case that gratuity was released on 07.12.2012 and he retired on 31.01.2008, therefore he is entitled for grant of interest on the delayed payment. Hence the Original Application.

3. The respondents resisted the claim of the applicant by filing detailed written statement wherein they submitted that the Original Application deserves to be dismissed on the ground that this Court had already rejected his claim for grant of interest, therefore, he cannot file subsequent petition for grant of interest. It is submitted that gratuity to the tune of Rs.1,59,777/- was released in favour of applicant on 10.12.2012 and thereafter the difference amounting to Rs.4,25,007/- was paid to the applicant on 17.10.2013, as directed by the Hon'ble High Court.

4. We have heard Shri Sanjeev Kumar vice Shri H.S Batth, learned counsel for the applicant and Shri D.R. Sharma and Shri K.B. Sharma, learned counsels for the respondents.

5. Shri Sanjeev Kumar, learned counsel appearing on behalf of the applicant submitted that since the respondents have withheld

the gratuity, therefore, they are liable to pay interest @ 18% in terms of Rule 68 of the CCS (Pension) Rules, 1972.

6. Per contra, Shri D.R. Sharma, learned counsel appearing on behalf of the respondents submitted that once the claim of the applicant for grant of interest has already been rejected by this Court, he cannot be allowed to agitate the matter second time in the subsequent petition.

7. We have given our thoughtful consideration to the rival contentions of the parties and perused the pleadings available on record with the able assistance of the learned counsels appearing for the parties.

8. To better appreciate the controversy the prayer made in OA-764/PB/2011 filed by the applicant is to be reproduced here:

"ii) Further a writ in the nature of mandamus for issuance of directions to the respondents to release the retiral benefits to the petitioner (gratuity etc.) along with interest @18% with immediate effect."

9. The above prayer clause (ii) makes it clear that applicant had prayed for award of interest @ 18%. The said OA was disposed of vide order dated 05.07.2012, where the above prayer of the applicant regarding interest has not been allowed by this Tribunal while disposing of the OA. The orders of this Court were subject

matter before the Hon'ble High Court in CWP no.24585-CAT/2013 (O&M), which was disposed of on 21.05.2013. Even in that the petitioner (applicant herein) was not awarded interest and only a direction was given to release the payment within three months. He was paid part of the gratuity amounting to Rs. Rs.1,59,777/- on 10.12.2012. The remaining amount of Rs.4,25,007/- was released on 17.10.2013 as per the orders of the Hon'ble High Court. Once his request for award of interest was not accepted by this Tribunal, which was affirmed by the Hon'ble High Court, then it is deemed to be rejected. Therefore, in a subsequent petition he cannot ask for award of interest on the principle of *res judicata*. Accordingly, the OA is dismissed being devoid of merit. No costs.

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**(SANJEEV KAUSHIK)
MEMBER (J)**

Uday Kumar Varma

(UDAY KUMAR VARMA)

MEMBER (A)

Chandigarh

Dated: 7.9.2015

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