

OA No.060/00281/2014
(Gurdev Singh v. UT Chandigarh & Anr.)

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CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCH

OA No. 060/00281/2014

Date of decision: 16.2.2015

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

HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

Gurdev Singh aged 71 years, Ex. Driver No.361, son of S. Avtar Singh, resident of Village Jakkar Majra, P.O. Teur, District Mohali, Punjab.

...APPLICANT

BY ADVOCATE : Shri Davinder Lubana

VERSUS

1. Union Territory, Chandigarh Administration through its Advisor, U.T. Secretariat, Sector-9, Chandigarh.
2. The Director, Transport, Chandigarh Administration, U.T., Chandigarh.

...RESPONDENTS

BY ADVOCATE: Shri H.S. Sullar

ORDER

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

The present Original Application has been filed by the applicant seeking interest upon the delayed payment of dues.

2. The facts, which led to filing of the present Original Application, are that the applicant joined the Indian Army as Naik on 18.03.1963 and served the Nation during the period of 1st and 2nd Emergency. After being relieved from the Indian Army, he joined respondent-transport department as driver on 20.04.1981 and retired on attaining the age of superannuation on 31.03.2000. The applicant moved a representation to the respondents for grant of benefit of service rendered during Emergency on 04.05.2010, in terms of Punjab Government National Emergency (Concession) Rules, 1965 read with clarification thereto on 19.08.1997; Government of Punjab notification dated 15.10.2009 and Chandigarh Administration notification dated 18.02.2010 adopting the notification issued by Government of Punjab, which provide for grant of increment to those who fought for the Nation during 1st and 2nd National Emergency. When the respondents did not grant the benefit, the applicant was compelled to approach this Court by filing O.A No.351/PB/2012, which was allowed on 02.01.2013, holding him entitled to the said benefit. Even then the respondents did not comply with the order and the applicant again approached this Court by

filings Contempt Petition. It is only thereafter that the respondents complied with the direction contained in order dated 02.01.2013 in December, 2013 and the payment was made without any element of interest on the delayed payment. The applicant before this Court in the present OA is asking for interest on the delayed payment from the date of passing of the order of this Court on 02.01.2013 till the actual payment was made to him.

3. In support of the above, Shri Lubana, learned counsel for the applicant submitted that this Court while allowing the plea in favour of the applicant directed the respondents to grant him the benefit within a period of two months from the date of receipt of a certified copy of this order. When the respondents did not comply with the direction of this Court, he filed a Contempt Petition in response to which the respondents came up with a plea that the revised PPO was issued on 27.12.2013 and on the basis of that the Contempt Petition was disposed of. He submitted that since his money has been withheld by the respondents illegally, they are liable to pay interest to make good the loss suffered by the applicant. In support of his plea the learned counsel placed reliance upon an order of this Court in the case of **Rajinder Singh v. Union of India & Ors.**, OA no.1033-CH-2012, decided on 05.03.2013.

4. The respondents filed their written statement wherein they have submitted that after the decision of this Court, as per the procedure, the case was forwarded to L.R. for legal opinion and after the

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advice tendered by said authority on 16.01.2013 not to file an appeal, the matter was processed and ultimately the applicant was granted the benefit by an order dated 06.06.2013. This was followed by release of amount on 19.09.2013 and also on 11.10.2013, which were actually transferred on 27.03.2014. There is no denial that there is delay on the part of the respondents.

5. We have given our thoughtful consideration to the entire matter.

6. The solitary contention at the hands of the applicant is that he is entitled to interest on delayed payment. Concededly the litigation was decided in favour of the applicant on 02.01.2013 with a direction to the respondents to grant the benefit of increment for the service rendered by the applicant during emergency period within a period of two months. Admittedly, the respondents did not release the amount after the time granted by this Court. It is only when the applicant approached this Court in Contempt, the audit authorities passed the payment on 11.10.2013 and on 27.03.2014 and actual benefit was released to the applicant thereafter. Therefore, there is a delay, which the respondents are unable to explain, for which they are liable to pay interest.

7. It is settled proposition of law that interest is compensatory in character and can be recovered for withholding the payment of any amount when it is due and payable. It is different from penalty and

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tantamount to compensation as the person entitled for recovery has been deprived of the right to use the said amount, as held by the Constitution Bench of the Hon'ble Supreme Court in the case of **Secretary, Irrigation Department, Government of Orissa & Ors. v. G.C. Roay**, AIR 1992 SC 732, which has been subsequently followed in the case of **Union of India v. Justice S.S. Sandhawalia**, (1994) 2 SCC 240, where their Lordships of the Hon'ble Supreme Court have held as under:

"Once it is established that an amount legally due to a party was not paid to it, the party responsible for withholding the same must pay interest at a rate considered reasonable by the Court. Therefore, we do not see any reason to interfere with the High Court's order directing payment of interest at 12% per annum on the balance of the death-cum-retirement gratuity which was delayed by almost a year."

8. In **S.K. Dua v. State of Haryana**, (2008) 3 SCC 44, their Lordships have held as under:

"If there are Statutory Rules occupying the field, the appellant could claim payment of interest relying on such Rules. If there are Administrative Instructions, Guidelines or Norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in absence Statutory Rules, Administrative Instructions or Guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. The submission of the learned counsel for the appellant, that retiral benefits are not in the nature of 'bounty' is, in our opinion, well-founded and needs no authority in support thereof."

9. Following the above, this Court in the case of **Rajinder Singh** (supra) has held that if amount belonging to an employee/pensioner is withheld by the department without any lawful reason by the department, then the authorities are liable to pay interest @9% per annum to make good the loss suffered by him due to non use of money belonging to him. In this case there does not appear to be any plausible reason for delay caused by the respondents in release of payment to the applicant. Thus, he is entitled to interest on delayed payment.

10. Accordingly, the Original Application is allowed. The applicant is held entitled to interest @9% per annum from the date of expiry of two months, as granted by this Court, till the actual date of payment.

11. No costs.

(Rajwant Sandhu)
Member (A)

(Sanjeev Kaushik)
Member (J)

Place: Chandigarh

Dated: 16.2.2015

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