

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-09/2017

Reserved on: 22.02.2018.

Pronounced on : 08.03.2018.

Hon'ble Ms. Praveen Mahajan, Member (A)

Sh. B.S. Jarial (Aged about 60 years),
S/o Late Sh. G.S. Jarail,
R/o Flat No. 43, MBK Apartments,
Sector-13, Dwarka, New Delhi-78.

..... Applicant

(Applicant in person)

Versus

1. Govt. of NCT of Delhi
Through Principal Secretary (Home),
Delhi Secretariat, IP Estate,
New Delhi-110002.
2. The D.G. (Prisons),
Prison Headquarter,
Near Lajpwanti Chowk,
New Delhi-110064.
3. The Superintendent,
Central Jail No.1, Tihar Jail,
New Delhi-110064.

.... Respondents

(through Ms. Ritika Chawla, Advocate)

ORDER

The applicant in the current O.A. was working as Dy. Supdt. Grade-I Prison since 30.06.1994. He retired from service on 29.02.2016. On the date of retirement, he was issued charge sheet by the respondents for the alleged incident of 2003, when he was officiating as Supdt. of Central Jail No.4. The applicant states that

the said charge sheet has been challenged by him in OA-4261/2013 before the Tribunal, which is pending for adjudication. The applicant made representations to the respondents for release of his leave encashment dues but has not been paid the same.

2. The applicant submits that during the pendency of the O.A., the respondents have made payment of Rs. 7,52,250/- on account of leave encashment to him vide cheque on 13.04.2017. However, the respondents have not paid any interest on the delayed payment i.e. w.e.f. 01.03.2016 to 12.04.2017. Therefore, his limited prayer is for payment of interest on the delayed payment of leave encashment.

3. The applicant has relied upon the following judgments in support of the relief claimed by him:-

- (i) **O.V. Thomas Vs. S.S. Sandhawalia**, (1994)2 SCC 240.
- (ii) **A.S. Randhawa Vs. State of Punjab**, 1997(4)SLR 617 (Pb.&Hry.)
- (iii) **Dr. Satish Chandra Govil Vs. UOI & Ors.**, (OA-2185/2012) decided on 19.12.2017 by CAT (PB).
- (iv) **S.C. Srivastava Vs. Secretary, Deptt. of Telecommunication and Other**, (OA-746/2011) decided on 04.12.2015 by CAT (Mumbai).

4. In their reply, the respondents aver that the applicant has been paid Rs. 7,52,250/- on account of leave encashment on 13.04.2017. Since the applicant was charge sheeted for major penalty on the date of his superannuation, hence the delay took place in obtaining necessary approvals etc. of the competent authority.

5. The fact remains that the applicant received his leave encashment dues almost one year after his retirement. Normally, withholding of leave encashment is for the purpose of adjustments of the same towards any dues payable by the Government servant to the Government. Rule-39(3) of the CCS (Leave) Rules, 1972 provides that the competent authority to grant leave may withhold whole or part of cash equivalent of earned leave in the case of a Government servant who retires from service on attaining the age of retirement while under suspension or while disciplinary or criminal proceedings are pending against him, if in the view of such authority there is a possibility of some money becoming recoverable from him on conclusion of the proceedings against him. Now, the respondents on their own accord have released the leave encashment amount to the applicant when the disciplinary proceedings are reportedly still pending. Hence, justifiably, once the amount of leave encashment has been paid to the applicant, interest for delay also ought to have been paid by the respondents as held in various pronouncements cited by the applicant.

6. I am, however, inclined to agree with the respondents that considerable time would have been consumed in obtaining approval of the competent authority for payment of leave

encashment to the applicant on account of the fact that he stood charge sheeted on the date of his retirement on 29.02.2016.

7. I, therefore, allow the O.A. and direct the respondents to pay interest to the applicant, as prayed for, in the O.A. on the leave encashment released three months after the date of retirement. The order may be complied with within three months from the date of receipt of a certified copy of this order. No costs.

(Praveen Mahajan)
Member (A)

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