

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI**

**OA NO.345/2016**

NEW DELHI THIS THE 5<sup>TH</sup> DAY OF OCTOBER, 2017

**HON'BLE MR. K.N. SHRIVASTAVA, MEMBER (A)**

Vijayender Singh Rathee,  
Superintendent (Retd),  
Aged about 65 years,  
S/o Late Shri Bhim Singh,  
R/o House No.39, Sector-6,  
Bahadurgarh-124507.

(Applicant in person)

...Applicant

**Versus**

1. Union of India  
through Secretary (Revenue),  
Ministry of Finance,  
Department of Revenue,  
North Block, New Delhi.
2. Commissioner,  
Central Excise and Service Tax  
Commissionerate,  
Rohtak.

...Respondents

(By Advocate: Mr. Rajeev Kumar)

**:ORDER (Oral):**

The applicant joined with the respondent - Department of Central Excise and Service Tax as a Lower Division Clerk (LDC) on 13.04.1976. He secured his regular promotion and finally retired from the post of Superintendent of Central Excise and Service Tax Department on 31.01.2011. At the verge of his retirement, the applicant was served a charge sheet, following which disciplinary inquiry was started against him. Due to this development, he could not be paid his retiral benefits viz. commutation of pension, leave encashment and gratuity. The inquiry was held in which the applicant had participated. The Inquiry Officer submitted his report in which it was concluded that the charge against the applicant was not proved. The relevant portion of inquiry report is reproduced below:-

"14. In the circumstances, *prima facie*, we are of the view that the grievance voiced by the appellant appears to be well founded that he would be entitled to interest on such benefits. 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 of 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. ...."

2. As no action was taken by the disciplinary authority on the Inquiry Officer's report, the applicant approached this Tribunal in OA No.1535/2011 which was allowed vide order dated 06.12.2013 in terms of the judgment of this Tribunal in the case of Madan Lal Versus Union of India and others in OA No.23/2011 decided on 08.11.2011. The operative part of the said order reads as under:

"5. It is in the above background, this OA has come up for hearing today. It is seen that there is already a finding in the aforesaid Order in the Review Application that the case of the applicant herein is squarely covered by the decision in the case of Madan Lal (supra). It is also seen that against the aforesaid decision of the Tribunal in the case of Madan Lal. W.P.C. No.3941/2012 was preferred by the respondents therein but it was dismissed on 1.10.2013. The operative part of the said order reads as under:

"24. In view of the above, we direct as follow:-

- (i) The writ petition is dismissed as devoid of legal merits.
- (ii) The petitioners shall ensure that the terminal benefits due to the respondent are computed within a period of four weeks from today and communicated to the respondents forthwith.
- (iii) The petitioner shall ensure that the payment of arrears of the pension is effected to the respondents within a further period of four weeks thereafter.
- (iv) The respondents shall be entitled to costs which are assessed as Rs.25,000/- each before the 7<sup>th</sup> day of next calendar year.

25. The writ petition and the applicants are disposed of in above terms."

6. In view of the above position, we hold that the aforesaid Order of the High Court in Madan Lal's case (supra) squarely applies in this case also. Accordingly, this OA is disposed of with the directions to the respondents to comply with the aforesaid directions including the directions to pay the cost in the case of the applicant herein also. They are also directed to release all the consequential benefits arising out of this order to the applicant. The aforesaid directions shall be complied with within a period of two months from the date of receipt of a certified copy of this order."

3. Pursuant to the order dated 06.12.2013 in OA No.1535/2011, the respondents released all the retirement dues of the applicant and have also granted him regular pension. They have also paid him interest at GPF rate on the gratuity amount released. The grievance of the applicant is that the respondents have not paid him interest on the leave encashment amount of Rs.3,17,260/- and commutation of pension amount of Rs.4,88,325/- on account of delayed release. Accordingly, the applicant filed this OA, which was later amended, praying for the following reliefs:-

"14. In the circumstances, *prima facie*, we are of the view that the grievance voiced by the appellant appears to be well founded that he would be entitled to interest on such benefits. 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 of 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....."

4. Heard the applicant and Shri Rajeev Kumar, learned counsel for the respondents today and perused the records.

5. Shri Rajeev Kumar, learned counsel for the respondents submitted that in terms of OM dated 05.10.1999 issued by Department of Pension and Pensioners Welfare, there is no provision under CCS (Leave) Rules for payment of interest on the delayed payment of leave encashment [Para 2(f)]

of the OM]. He further argued that in terms of this OM, no interest is payable on delayed payment of pension and commutation of pension.

6. Per contra, the applicant argued that this Tribunal, in the case of ***Suraj Bhan Versus Union of India and others*** (OA No.1821/2013 decided on 18.02.2014), has allowed payment of interest on the delayed release of commutation of pension and leave encashment as well. He further submitted that the said order was challenged before the Hon'ble High Court of Delhi in Writ Petition(C) No.3776/2015- Union of India & others Versus Suraj Bhan, which was dismissed vide order dated 12.01.2016.

7. I have gone through the pleadings and considered the rival contentions of the parties.

8. Admittedly, the applicant could not be released his retiral dues on the date of his retirement, i.e. 31.01.2011 due to impending disciplinary inquiry. The Inquiry Officer held the charge of the applicant as not proved. Since no final decision was taken by the concerned authority on the Inquiry Officer's report, the applicant had approached this Tribunal in OA No.1535/2011 which was disposed of on 06.12.2013 with a direction to the respondents to release all his retiral dues. The respondents have released all the retiral dues in compliance of the said order in March, 2015. Needless to say that if there was no contemplation of the disciplinary action against the applicant, he would have got all these retiral benefits on 31.01.2011 itself.

9. In view of the fact that the charge against him has not been proved and taking cognizance of the same, the Tribunal has also directed the respondents to release all his retiral dues, which had been done by the respondents in March, 2015, it is only logical that the applicant be granted interest on all such delayed payments. The respondents cannot be allowed to take shelter under the OM dated 05.10.1999 of Department of Pension

and Pensioners Welfare for denying the payment of interest to the applicant. This issue is no more *res integra* since it has been decided by this Tribunal in Suraj Bhan (supra) and Tribunal's order has been duly upheld by the Hon'ble Delhi High Court in W.P.(C) No.3776/2015.

10. In the conspectus of the discussions in the foregoing paras, respondents are directed to pay GPF rate of interest to the applicant for delayed release of commutation of pension and leave encashment from 01.02.2011 to 31.03.2015. Accordingly, the OA is disposed of. This shall be done within a period of two months from the date of receipt of a copy of this order. No costs.

**(K.N. SHRIVASTAVA)  
MEMBER (A)**

/JK/