

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

OA No. 1373/2014

This the 22nd day of August, 2016

Hon'ble Mr. P.K. Basu, Member (A)

Chander Kant Dubey, Aged-63 years,
S/o Sh. Kamla Kant Dubey,
Retired from the post of Loco Pilot (Senior Passenger),
From Northern Railway, Delhi Division
R/o 179, 'H' Block, Karampura,
New Delhi

..... Applicant

(By Advocate: Mr. Yogesh Sharma)

VERSUS

1. Union of India through
The General Manager,
Northern Railway, Baroda House,
New Delhi.

2. The Divisional Railway Manager,
Northern Railway, State Entry Road,
New Delhi

..... Respondents.

(By advocate: Mr. Rahul Pandey with Mr. A.R. Verma)

ORDER (ORAL)

Heard learned counsel for the parties. The question before this Tribunal is whether the applicant is entitled to grant of interest on delay of 15 months in payment of pension of 11 months in case of leave encashment. On the direction of this Tribunal in OA No. 3466/2013 vide order dated 01.10.2013, the respondents have passed speaking order dated 22.11.2013 by which interest of DCRG amount to Rs. 52101.20/- has been sanctioned for period delayed

beyond 3 months. The learned counsel for the respondents stated that the applicant had been retired compulsorily due to departmental charges on 20.08.2011 that is 11 days before his normal date of retirement i.e. on 31.08.2011 and therefore, keeping in view this fact, payment of interest on DCRG is applicable to him only from 19.11.2011 to 20.07.2012 (8 months) and that comes to Rs. 52101.20/- only. The interest on delayed payment of pension and retirement benefits have not been sanctioned.

2. Learned counsel for the respondents states that as per Department of Pension and Pension Welfare vide OM No. 38/64/98-P dated 01.05.2012 only interest on delayed payment on DCRG will be applicable and no interest on delayed payment on leave encashment, CGIS etc. is payable.

3. Learned counsel for the applicant relied upon judgment of Hon'ble Supreme Court in *S.K. Dua Vs. State of Haryana & Anr.* 2008 (3) SLJ 108 in which the Hon'ble Supreme Court has held that "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. 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. In that view of the matter, in our considered opinion, the High Court was not right in dismissing the petition in limine even without issuing notice to the respondents.”

4. Learned counsel for the applicant also relied on the judgment of Hon’ble High Court of Delhi in *Delhi Police Vs. Balwant Singh*, vide order dated 13.03.2012 and on judgment of Hon’ble Supreme Court in the case of *Vijay I. Malhotra Vs. State of U.P. & Ors*, JT 2000(5) SC 171, in which the Hon’ble Apex Court has granted interest @ 18% per month and also granted payment of leave encashment. It is pointed out that in OA No. 3933/2010 vide order dated 19.05.2011, this Tribunal has also granted at 9% interest on the late payment of pensionary benefits to the applicant.

5. In view of the decisions of Hon’ble Supreme Court in *Vijay I. Malhotra Vs. State of UP & Ors*. (Supra) and Hon’ble High Court in *Delhi Police Vs. Balwant Singh* and with regard to the arguments of leaned counsel for the parties, I am of the view that interest is payable and the OA is accordingly disposed of by directing the respondents to pay simple interest for late payment of pension as well as leave encashment @ 9% per month as also interest on gratuity from the due date. The order shall be complied within 90 days from the receipt of a certified copy of this order.

(P.K. Basu)
Member (A)

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