

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

OA No.1391/2016

Order Reserved on: 17.10.2016.

Pronounced on: 28.10.2016.

Hon'ble Mr. K.N. Shrivastava, Member (A)

Bibhuti Narayan Sinha,
S/o late Shri R.K.P. Sinha,
R/o 3, Engineers Enclave,
Ground Floor, Pitampura,
Delhi-110034.

- Applicant

(Applicant in person)

Versus

1. Union of India through
Its Secretary,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi-110011.
2. The Secretary,
Department of Personnel & Training,
North Block,
New Delhi-110001.
3. The Director General,
Central Public Works Department,
Nirman Bhawan,
New Delhi-110011.

-Respondents

(By Advocate Shri Hanu Bhaskar)

ORDERS

This Original Application (OA) has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 praying for the following main relief:

“i) Order for payment forthwith of interest @ 12% per annum (as against payment allowed at around 8.25% on gratuity at GPF rate and no interest on earned leave encashment);”

2. The brief facts of this case are as under.

2.1 The applicant retired as Chief Engineer from Central Public Works Department (CPWD) on 30.09.2002. Just a few days before his retirement, a charge-memo dated 25.09.2002, containing two articles of charge was served upon him. The DE proceedings culminated in imposition of a penalty of withholding of 10% monthly pension for a period of two years on him, vide order dated 16.11.2011. Aggrieved by the penalty order, the applicant approached this Tribunal in OA no.3794/2012, which was disposed of on 20.12.2013, quashing the penalty imposed, on the ground that copy of disagreement note along with the advice of the UPSC and report of the CVC were not provided to the applicant before passing the penalty order.

The Tribunal, however, gave liberty to the respondents to proceed against the applicant from the stage of making the disagreement note along with the advice of the UPSC and report of the CVC available to the applicant.

2.2 The respondents in their wisdom decided to withdraw the charges against the applicant vide their Annexure A-4 order dated 02.07.2015, which *inter alia*, states that “*the President hereby orders exoneration of sh. Bibhuti Narayan Sinha, CE (Civil) (Retired), CPWD, and the charges and proceedings instituted against him vide the aforesaid Memorandum No.C.13011/ 12/2002-AV.I dated 25.09.2002 are hereby withdrawn.*”

2.3 Pursuant to the Annexure A-4 order, the respondents paid him an amount of Rs.3,50,000/- towards gratuity including interest @8.25%. They also paid him an amount of Rs.3,13,927/- towards leave encashment on which no interest was paid.

2.4 The prayer of the applicant in the OA is that he is entitled for interest @12% both on gratuity and leave encashment benefits payable to him.

3. Pursuant to the notices issued, the respondent entered appearance and filed their reply. With the completion of the pleadings the case was taken up for hearing the arguments of the parties on 17.10.2016. The applicant in person and Shri Hanu Bhaskar, learned counsel for the respondents argued the case.

4. Admittedly, the applicant has been exonerated of the charges and hence he becomes eligible for receiving all his retiral benefits. Since retiral benefits have been paid to him after a fairly long delay, he is entitled for interest on such delayed payments. The respondents on their own paid interest @8.25% on the gratuity but have not done so for the leave encashment benefit on the ground that DoP&T OM dated 05.10.1999 clearly states that that there is no provision under the CCS (Leave) Rules for payment of interest on delayed payment of leave encashment and that encashment of leave benefit is granted under the Leave Rules and it is not a pensionary benefit. This position has been communicated by them to the applicant vide their order dated 22.03.2016.

5. I have considered the arguments of the applicant in person and the learned counsel for the respondents and have also perused the pleadings and the documents annexed thereto. Admittedly, the applicant has been exonerated of the charges and hence his eligibility for receiving all his retiral benefits on the day of his retirement gets firmly established. In the other words, the applicant who retired on 30.09.2002, ought to have got his retiral benefits, viz. gratuity and leave encashment on 01.10.2002 itself. For understandable reasons, these retiral benefits were not released to him on the due date. Now, since he has been exonerated of the charges by the respondents, his entitlement of receiving the retiral benefits w.e.f. 01.10.2002 gets re-established. As per the records, leave encashment was released to him on 02.11.2013 and gratuity on 22.01.2014. This delay is entirely attributable to the respondents. Therefore, the applicant is entitled for interest on these delayed releases. This Tribunal has been awarding interest at GPF rate of interest in the cases of such delayed payments. The respondents have already paid interest at the GPF interest rate of 8.25% on the

amount of gratuity, whereas the same has not been done by them in the case of leave encashment. I am, therefore, of the view that the applicant is entitled for interest @8.25% even on the amount payable to him towards leave encashment. At the same time, I do not accept the claim of the applicant that he is entitled for interest @12% and not at the GPF rate of interest. One has to appreciate that this Tribunal has been awarding interest on delayed payments at GPF rates on the rationale that the GPF rate is always higher than the fixed deposit rates of the Banks.

6. In the conspectus of the discussions in the foregoing paras, I direct the respondents to pay interest @8.25% on the delayed release of the amount paid towards leave encashment to the applicant for the period from 01.10.2002 to 02.11.2013. The OA is partly allowed.

7. No order as to costs.

**(K.N. Shrivastava)
Member (A)**

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