

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

OA No.1438/2014
MA No.2827/2015

Order reserved on 20.09.2016
Order pronounced on 10.11.2016

Hon'ble Shri V Ajay Kumar, Member (J)

Shri H.L. Yadav
Son of Late Shri A S Yadav
R/o A-229, Prashant Vihar
Delhi-110085.

...Applicant

(Through Advocate: Shri V K Goel)

Versus

1. The Chief Secretary
Govt. of NCT of Delhi
Delhi Secretariat
I.P. Estate, New Delhi-110002.

2. The Director of Education
Directorate of Education
Old Secretariat, Delhi-110054.

...Respondents

(Through Advocate: Shri Anmol Pandita for Shri Vijay Pandita)

Order

The applicant, a retired Superintendent Grade-I (DASS), filed this Original Application seeking a direction to the respondents to pay the difference amount of interest by calculating the interest at the rate of 18% per annum on the delayed payment of gratuity amounting to Rs.2,22,503/- and further direction to pay interest at the rate of 18% per

annum from 22.09.2009 to 25.10.2013 on the delayed payment towards the non functional pay scale amounting to Rs.1,90,319/-.

2. The brief facts of the case are that the applicant was retired from service on attaining the age of superannuation on 30.06.2003 while working as Superintendent Grade-I (DASS). An FIR was lodged against him under Section 13(1)(d) of the Prevention of Corruption Act, 1988 and 420/408/471,120-B of IPC.

3. After a detailed inquiry, C.C.No.44/11 filed in connection with the said FIR, the applicant was acquitted from all the charges vide the judgment of the Court of Special Judge-07 (Central), (PC Act cases of ACB, GNCTD), Delhi dated 22.02.2012. In view of the pendency of the aforesaid C.C., though the applicant was retired from service on 30.06.2003, the respondents have not released his gratuity and non functional pay scale amounts immediately after his retirement. However, after the applicant was acquitted from the charges on 22.02.2012, the respondents paid the gratuity amount along with interest at the rate of 8%-8.8% per annum w.e.f. 01.10.2003 in stead of 01.07.2003 till the date of actual payment i.e. on 16.01.2013. Similarly, the respondents have paid the non

functional pay scale to the applicant on 26.10.2013. However, without any interest. The applicant filed the OA seeking the payment of difference of interest on gratuity amount i.e. 18%-8-8.8% for the delayed period. The applicant is also claiming interest at the rate of 18% on the non functional pay scale amount for the delayed period.

4. Heard Shri V K Goel, learned counsel for the applicant and Shri Anmol Pandita proxy counsel for Shri Vijay Pandita, learned counsel for the respondents.

5. The respondents submits that as per Rule 68 of CCS (Pension) Rules, 1972, no interest on gratuity is payable for the first three months and the rate of interest payable for the period beyond three months till the date of actual payment is the prevailing rate of interest on GPF. Accordingly, after the applicant was acquitted from the criminal case, they had paid the interest at the prevailing interest rate of GPF, however, w.e.f. 01.10.2003 i.e., w.e.f. the expiry of three months. Rule 68 of the CCS (Pension) Rules, 1972 reads as under:-

"68. Interest on delayed payment of gratuity

¹[(1) If the payment of gratuity has been authorised later than the date when its payment becomes due, and it is clearly established that the delay in payment was attributable to administrative lapses, interest shall be paid at

such rate as may be prescribed and in accordance with the instructions issued from time to time:

Provided that the delay in payment was not caused on account of failure on the part of the Government servant to comply with the procedure laid down by the Government for processing his pension papers.]

²(2) Every case of delayed payment of gratuity shall be considered by the Secretary of the Administrative Ministry or the Department in respect of its employees and the employees of its attached and subordinate offices and where the Secretary of the Ministry or the Department is satisfied that the delay in the payment of gratuity was caused on account of administrative lapse, the Secretary of the Ministry or the Department shall sanction payment of interest.

²(3) The Administrative Ministry or the Department shall issue Presidential sanction for the payment of interest after the Secretary has sanctioned the payment of interest under sub-rule (2).

²(4) In all cases where the payment of interest has been sanctioned by the Secretary of the Administrative Ministry or the Department, such Ministry or the Department shall fix the responsibility and take disciplinary action against the Government servant or servants who are found responsible for the delay in the payment of gratuity.

(5) Deleted"

6. To resolve the claim of the applicant with regard to payment of interest on gratuity for the period from 01.07.2003 i.e. the date on which the said amount became due to him to 01.10.2003 i.e. the date on which three months period expired from the date of his retirement at the rate of 18% per annum, the Govt. of India's decisions issued under the aforesaid Rule are required to be examined. The relevant Govt. of India decisions are reproduced as under:-

"(1) Admissibility of interest on gratuity allowed after conclusion of judicial/departmental proceedings. –

1. Under the rules, gratuity becomes due immediately on retirement. In case of a Government servant dying in

service, a detailed time-table for finalizing pension and death gratuity has been laid down, vide Rule 77 onwards.

2. Where disciplinary or judicial proceedings against a Government servant are pending on the date of his retirement, no gratuity is paid until the conclusion of the proceedings and the issue of the final orders thereon. The gratuity if allowed to be drawn by the competent authority on the conclusion of the proceedings will be deemed to have fallen due on the date of issue of orders by the competent authority.

3. In order to mitigate the hardship to the Government servants who, on the conclusion of the proceedings are fully exonerated, it has been decided that the interest on delayed payment of retirement gratuity may also be allowed in their cases, in accordance with the aforesaid instructions. In other words, in such cases, the gratuity will be deemed to have fallen due on the date following the date of retirement for the purpose of payment on interest on delayed payment of gratuity. The benefit of these instructions will, however, not be available to such of the Government servants who die during the pendency of judicial/disciplinary proceedings against them and against whom proceedings are consequently dropped.

4. These orders (paragraph 3) shall take effect from the 10th January, 1983.

[G.I., Dept. of Per. & A.R., O.M. No. F. 7 (1)-P.U./79, dated the 11th July, 1979 and No. 1 (4)/Pen. Unit/82, dated the 10th January, 1983.]

(2)Interest for delayed payment of Retirement/Death Gratuity to be at the rate applicable to GPF deposits.-1. It has been decided that where the payment of DCRG has been delayed beyond three months from the date of retirement, an interest at the rate applicable to GPF deposits will be paid to retired/dependants of deceased Government servants.

2. The Administrative Ministries are requested to ensure that in all cases where interest has to be paid on Death-cum-Retirement Gratuity because of administrative delay, action should be taken against the officer responsible for the delay.

5. (a) The rate of interest mentioned in Para.1 above will be applicable in all cases where the DCRG has not been paid as on date of issue of this OM.

6. All existing instructions relating to interest rate payable by the Government or the employees, as the case may be, will cease to operate with effect from the date of issue of this OM.

[G.I., Dept. of P.&P.W., O.M. No.F.7/1/93-P. & P.W. (F), dated the 25th August, 1994.-Paras 1,2, 5 (a) and 6.]”

7. A combined reading of the aforesaid Govt. of India's decisions clearly indicate that the retired Govt. servant is entitled for payment of interest at the rate applicable to GPF deposits, if the payment of gratuity amount is delayed, unless the court feels that some other rate is just and reasonable. Further, it is also clear that once the delay is occurred in payment of gratuity, the Govt. servant is entitled for interest from the date of his retirement. Hence, the applicant is entitled for payment of interest on the gratuity amount from 01.07.2003 to 01.10.2003 also, however, at the prevailing rate of interest on GPF as the same is just and reasonable in the facts of the present case.

8. It is the contention of the respondents that the interest is payable for terminal benefits only, if they are delayed. Since the payment of arrears of non functional pay scale is not a terminal benefit, the applicant is not entitled for interest thereon. Since the applicant himself is responsible due to his involvement in the criminal case and since he was finally acquitted from the criminal case only on 22.02.2012, the respondents paid the non functional pay scale to him on 26.10.2013. It is their further case that at the relevant time since the criminal case was pending against the applicant for

want of vigilance clearance, the non functional pay scale could not be released to him.

9. We find force in the submissions made by the respondents and since admittedly the non functional pay scale was not granted to the applicant at the relevant point of time for want of vigilance clearance, in view of the pendency of the criminal case, the respondents rightly released the same to the applicant after he was finally acquitted from the criminal case. Hence, we do not find any illegality either in paying the non functional pay scale to the applicant on 26.10.2013 or in not paying any interest thereon.

10. In the circumstances and for the aforesaid reasons the OA is partly allowed. Accordingly the respondents are directed to pay interest at the prevailing GPF rate from 01.07.2003 to 01.10.2003 on the gratuity amount to the applicant. This exercise shall be completed within three months from the date of receipt of a copy of this order. No costs.

(V Ajay Kumar)
Member(J)

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