

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

OA No. 1110/2016

Reserved on: 22.03.2018.

Pronounced on:17.04.2018.

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

Swarn Gujral,
[Aged 63 years, Retired as ASTO]
W/o Sh. S.Sampuran Singh,
R/o B-12, Tagore Garden Extn,
New Delhi-110027.

... Applicant

(through Sh. R.K.Jain, Advocate)

Versus

1. The Govt. of NCT of Delhi
Through its Chief Secretary,
Players Building,
I.P.Estate, New Delhi.
2. The Commissioner (Trade & Taxes),
Vyapaar Bhawan,
I.P.Estate, New Delhi.
3. The Asstt. Commissioner (HR)/H.O.O
Department of Trade & Taxes,
Govt. of NCT of Delhi,
Vyapaar Bhawan,
I.P. Estate, New Delhi.

.... Respondents

(through Sh. Vijay Pandita, Advocate)

ORDER

The applicant has filed this O.A. against the order dated 09.12.2015 passed by the respondents in which the applicant has

been denied the interest on delayed payment of leave encashment.

2. The applicant was appointed as Junior Stenographer with Government of National Territory of Delhi (GNCTD) in the year 1973. She was placed under suspension by the respondents on 09.03.2005 and dismissed from service under Article 311(2)(b) of the Constitution of India vide order dated 7/8.09.2006. This dismissal order was revoked on 01.03.2011 in compliance with an order passed by the Tribunal in OA-2567/2006. However, the applicant was placed under suspension w.e.f. 08.09.2006 retrospectively by the same order. The applicant filed OA-3430/2012 challenging her suspension order dated 09.03.2005. On 02.12.2013, the O.A. was disposed of directing the department to deem the applicant in service w.e.f. 07.06.2005 till the date of dismissal from service i.e. 08.09.2006 with all consequential benefits. The applicant again filed another OA-405/2015, which was disposed of vide order dated 09.02.2015 with a direction to the respondents to consider her representation. Finally, on 24.09.2015, the respondents have sanctioned the payment of leave encashment amounting to Rs. 4,72,140/- to the applicant, which she received in the month of November, 2015.

3. The applicant represented to the respondents to grant her interest on the delayed payment of leave encashment, which has been rejected on 09.12.2015.

4. In the reply, the respondents have submitted that the relief prayed for by the applicant cannot be granted in view of para-5(f) of Rule-68 of CCS (Pension) Rules. The same is reproduced below:-

"In the matter of delayed payment of leave encashment, the Department of Personnel and Training in their note, dated 2-8-1999 has clarified that there is no provision under CCS (Leave) Rules for payment of interest or for fixing responsibility. Moreover, encashment of leave is a benefit granted under the leave rules and not a pensionary benefit."

4.1 They state that the applicant has no cause of action or any prima facie case to seek any relief from the Court and her prayer needs to be rejected.

5. During the course of hearing, learned counsel for the applicant has relied upon the judgment of Principal Bench of CAT in **OA-1821/2013** (Suraj Bhan Vs. UOI & Ors.) decided on 18.02.2014.

5.1 Learned counsel for the applicant pressed for grant of interest on delayed payment of leave encashment whereas learned counsel for the respondents contended that there was no provision whatsoever for grant of interest on leave encashment, which is a benefit granted under the Leave Rules not a pensionary benefit. He also placed reliance on the judgment of Principal Bench of CAT in

OA-3134/2012 (Yad Ram Yadav Vs. GNCTD & Ors.) decided on 06.11.2017.

6. I have gone through the facts of the case and I find that though the Pension Rules do not contain any provision of interest on other retiral dues like gratuity and pension, yet the judicial pronouncements are to the contrary to this. In the case of **Vijay L. Mehrotra Vs. State of UP & Ors.**, JT 2000(5) SC 171 Hon'ble Supreme Court was pleased to grant interest on leave encashment along with other retiral dues like gratuity, commuted pension etc.

7. I, therefore, hold that the applicant is entitled to interest on leave encashment from the date of expiry of three months from the date the said dues became due to her @ GPF rate. Accordingly, the impugned order dated 09.12.2015 is quashed and set aside. The respondents are directed to determine the amount of interest on leave encashment and pay the same to her within three months from the date of receipt of a certified copy of this order. The O.A. is accordingly allowed. No costs.

(Praveen Mahajan)
Member (A)

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