

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

**OA-3892/2015  
MA-1875/2016**

**Reserved on : 24.08.2016.**

**Pronounced on : 31.08.2016.**

**Hon'ble Mr. Shekhar Agarwal, Member (A)**

Sh. T.M. Sampath,  
S/o late Sh. Munisamy Mudaliar,  
Aged about 60 years,  
Retired as Administrative Officer,  
Temporarily at C-2C/2/8 Janakpuri,  
New Delhi-110058.

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Applicant

(Applicant in person)

Versus

Union of India through

1. The Secretary to Government of India,  
Ministry of Water Resources & Ex-officio  
Chairman, Governing Body of NWDA,  
Shram Shakti Bhawan,  
Rafi Marg, New Delhi.

2. Sh. S.M. Husain,  
Director General,  
National Water Development Agency,  
18-20, Community Centre,  
Saket, New Delhi-110017.

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Respondents

(through Sh. R.N. Singh, Advocate)

**ORDER**

This O.A. has been filed seeking the following relief:-

“(i) direct respondents to make the payment of gratuity of Rs. 10,00,000/- together with interest @ 18 per cent per annum on the gratuity amount due on 31.7.2015, the date of retirement of applicant from 1.8.2015 till the date of release of gratuity amount to the applicant.

(ii) Call for records of Service Book of applicant and direct to pay leave encashment for balance 55 days EL and 32 days half pay leave with interest @ 18 per cent per annum from 1.8.2015 to till the date of release of payment of leave encashment.

(iii) direct to revise the leave encashment already paid on 1.8.2015 as the respondent considered DA @ 113 per cent whereas the DA was 119 per cent on 31.7.2015, the date of retirement of the applicant.

(iv) direct the respondents to recover the interest calculated on the amount of gratuity from the salary of respondent No.2, who is responsible for causing the delay in releasing the payment of gratuity.

(v) impose heavy cost on Respondent No.2 and in favour of applicant for causing delay in releasing the payment of gratuity to the applicant thereby causing financial hardship to the applicant and recover the cost imposed from the salary of respondent No.2.

(vi) allow the OA with exemplary costs; and

(vii) Pass any further orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case."

2. On the last date of hearing, I had directed the applicant to file an additional affidavit clarifying whether the same issue was pending before Hon'ble High Court of Delhi as well. In compliance thereof, the applicant has filed an affidavit dated 11.08.2016. He has also obtained clarification from Hon'ble High Court of Delhi. Hon'ble High Court of Delhi vide their order dated 11.08.2016 in W.P.(C)-9278/2015 have clarified as follows:-

**"CM No. 29335/2016 in W.P.(C) 9278/2015**

This is an application filed by the applicant/respondent seeking clarification of the order dated 29th September, 2015 passed by this court. The applicant/respondent submits that he

has filed a substantive petition before the Central Administrative Tribunal being OA No. 3892/2015 for release of payment of gratuity.

On 29th September, 2015, while issuing notice in this writ petition filed by the Union of India, the respondent had made a complaint to this court that, although, he retired on 31st July, 2015, but his retiral benefits were not being released. This court, had thus directed the petitioners to release the retiral benefits of the respondent in accordance with law.

The respondent, who appears in person submits that the Tribunal is not hearing the matter on the ground that the High Court is seized of the matter.

Heard. We clarify that as the substantive relief sought by the respondent is before the Tribunal as stated by him and we have only entertained the writ petition filed by the Union of India, being aggrieved by the order dated 15th July, 2015 passed in OA No. 1070/2015 by the Central Administrative Tribunal.

This application is accordingly disposed of with the above clarification.

*Dasti* under signatures of the Court Master."

3. Thus, from the above clarification, it is evident that Hon'ble High Court of Delhi have entertained the aforesaid Writ Petition against the order of this Tribunal in OA-1070/2015 only. The said order deals with the period that has been treated as dies non by the respondents. Thus, the issue of release of retiral benefits and interest on delayed payment is not before Hon'ble High Court of Delhi. Accordingly, I have proceeded to hear this case.

4. As far as encashment of E.L. is concerned, the respondents in their reply filed on 04.11.2015 have stated that the applicant has been paid Rs. 4,07,697/- for encashment of 180 days of E.L. and 80 days of HPL. They have also paid Rs. 11,485/- towards leave encashment due to increase in DA rates from 113% to 119%.

According to them, after payment of the aforesaid amount, nothing remains to be paid to the applicant for leave encashment.

5. On 09.08.2016, I directed the applicant to file an additional affidavit indicating clearly as to what remains to be paid to him insofar as his retiral benefits were concerned. In compliance thereof, the applicant has filed his additional affidavit on 11.08.2016 in which he has not mentioned that any amount remains outstanding under the leave encashment head. During the course of arguments, the applicant stated that he wanted to withdraw his prayer regarding leave encashment with liberty to file afresh O.A. for the same. This prayer was seriously opposed by the learned counsel for the respondents, who argued that pleadings on this issue have already been exchanged and there was no reason why the applicant be given liberty to file fresh OA on the subject. I am inclined to agree with the respondents in this regard. The applicant cannot be allowed to waste precious judicial time by filing OAs repeatedly on the same issue.

6. The respondents have categorically stated in their reply that nothing remains outstanding as far as encashment of leave was concerned. There is no rebuttal of this averment by the applicant in his affidavit filed on 11.08.2016. I am, therefore, of the view that the respondents' contention in this regard be accepted. I, accordingly,

hold that as far as encashment of E.L. is concerned, the entire admissible amount has already been paid to the applicant.

7. As far as gratuity is concerned, in his affidavit dated 11.08.2016, the applicant has claimed that Rs. 1, 13, 531/- is yet to be paid by the respondents. In response thereto, the respondents vide their affidavit dated 23.08.2016 have stated in para-9 as follows:-

“That the respondents have already paid an amount of Rs.9,16,314 to the applicant out of the admissible gratuity of Rs.10.00 lakhs, as per following details:

(i)	Vide Office Order dated 26.11.2015	Rs.3,30,000
(ii)	Vide Office Order dated 18.01.2016	Rs.1,05,414
(iii)	Vide Office Order dated 03.02.2016	Rs.4,75,098
(iv)	Vide Office Order dated 22.04.2016	Rs. 05,802
	<b>Total</b>	<b>Rs.9,16,314</b>
	Admissible Gratuity amount	Rs.10,00,000
	Gratuity amount released	Rs. 9,16,314
	<b>Balance gratuity amount</b>	<b>Rs. 83,686</b>

Copies of above Office Orders are enclosed as **Annexure R-1 (Colly.)**”

7.1 Thus, according to them, only Rs. 83,686/- remains to be paid and this happens to be the amount, which is involved in the Writ Petition (C) No. 9278/2015 and is under consideration of the Hon'ble High Court of Delhi.

8. I have heard both sides and have perused the material placed on record. The respondents have given details of payments made to the applicant on different dates mentioned above out of gratuity

of Rs.10 lakhs. According to them, the balance gratuity amount is only Rs.83,686/- and not Rs. 1,13,531 as claimed by the applicant. The applicant also during the course of arguments did not seriously dispute the same. In view of the fact that the respondents have given specific orders, numbers and dates, on which gratuity was paid to the applicant, I am inclined to accept the version of the respondents and hold that only Rs. 83,686/- is outstanding, which can be released only after decision of Hon'ble High Court of Delhi in Writ Petition (C) No. 9278/2015. Except for that amount, the entire gratuity amount has been paid.

9. However, I notice that the applicant retired on superannuation on 31.07.2015. Thus, the admissible gratuity amount should have been paid to him on 01.08.2015. Instead of this the respondents have paid this amount in instalments on different dates mentioned above. The reason given by the respondents in their reply was that this amount had been withheld due to pendency of the Writ Petition (C) No. 8052/2009 before the Hon'ble High Court of Delhi and SLP No. 25388/2012 before Hon'ble Supreme Court. The respondents have also stated that as per Rule-10(2) of NWDA DCRG Rules, 2012, the respondents were entitled to withhold this amount to use the same to settle the amounts, which were pending adjudication in the Court cases mentioned above.

10. However, I do not find this argument of the respondents to be very convincing. When Hon'ble High Court of Delhi in Writ Petition (C) No. 9278/2015 on 29.09.2015 directed that retiral benefits of the applicant be released in accordance with law, the respondents have paid gratuity amount as mentioned above on different dates. From this, it is obvious that there was no justifiable reason to withhold this amount. The respondents had withheld it and released it immediately when the Court so ordered. Thus, the applicant does become entitled for interest on this delayed payment of gratuity.

11. I, therefore, allow this O.A. partly and direct the respondents to pay to the applicant interest at GPF deposit rates on delayed payment of gratuity from 01.08.2015 i.e. on which date, it became due till the date of actual payment. This payment shall be made to the applicant within 06 weeks from the date of receipt of a certified copy of this order. No costs.

**(Shekhar Agarwal)**  
**Member (A)**

/Vinita/