

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

OA No.3918/2015

this the 31st day of January, 2017

Hon'ble Mr. V. Ajay Kumar, Member (J)

Prem Nath Manchanda

Aged 65 years

S/o Shri Daulat Ram

Retired VATO (Pay Purpose) from

Trade & Taxes Department

GNCT of Delhi

R/o H-3/106, Vikaspuri, New Delhi-18

..... Applicant.

(By Advocate: Shri Yogesh Sharma)

Versus

Govt. of NCT of Delhi through

1. The Chief Secretary

New Sectt. I.P.Estate, New Delhi.

2. The Commissioner

Trade and Taxes Department

GNCT of Delhi, Vyapar Bhawan

I.P.Estate, New Delhi.

..... Respondents

(By Advocate: Shri Vijay Pandita)

ORDER (ORAL)

Heard both sides.

2. The applicant, a retired DANICS Officer (VATO) filed the OA seeking direction to the respondents to pay the interest @ 12% per annum on the payment of leave encashment, which was paid to him belatedly.

3. Though the applicant retired from service on 31.08.2010, on attaining the age of superannuation, the respondents have initially not released the leave encashment amount on the ground that a criminal case was registered

against him and he was also charge-sheeted under Rule 14 of the CCS (CCA) Rules. However, finally they have paid the leave encashment amount vide Order dated 21.04.2015. The claim of the applicant regarding payment of interest for the delayed period was rejected by the respondents by Impugned Annexure A-1 order dated 22.09.2015 and Annexure R-2 dated 08.12.2015.

4. Heard Shri Yogesh Sharma, counsel for the applicant and Shri Vijay Pandita, counsel for the respondents and perused the pleadings on record.

5. The learned counsel for the respondents submits that the applicant is not entitled for granting of any interest for the delayed period of payment of leave encashment, as there is no provision for the same. The learned counsel further submits that since the criminal case and the departmental inquiry are still pending against the applicant, even on that ground also, he is not entitled for payment of any interest. It is further submitted that leave encashment amount is not a part of the pensionary benefits and, hence, as per rules the said amount does not carry the interest even, if the same is paid belatedly.

6. It is the settled principle of law that once an employee retired from service, is entitled for all his retiral benefits with effect from the date of his retirement, unless, there is a provision/rule empowering the respondents to withhold any of the said benefits.

7. In WP (C) No.1227/2012 dated 13.03.2012, the Hon'ble High Court of Delhi in **Delhi Police Vs. Balwant Singh** considered the issue of payment of interest on the delayed payment of the leave encashment by following its earlier decision in **Government of NCT of Delhi Vs. S.K.Srivastava** WP(C) No.1186/2012, and allowed the said Writ Petition by directing the

respondents to pay interest for the delayed period of payment of leave encashment @ 9% per annum.

8. It is worthwhile to mention here that while dealing with admissibility of payment of interest for delay, in respect of retiral dues, the Hon'ble Supreme Court observed in the case of ***S.K. Dua vs. State of Haryana and Anr.***, JT 2008 (1) SC 331, the relevant part of which is as follows:-

"In the circumstances, *prima facie*, we are of the view that the grievance voiced by the appellant appears to be well-founded that he would be entitled to interest on such benefits. If there are Statutory Rules occupying the field, the appellant could claim payment of interest relying on such Rules. 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 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."

9. In the circumstances and for the aforesaid reasons, the OA is allowed and the orders dated 22.09.2015 and 08.12.2015 are quashed and the respondents are directed to pay interest at the GPF rate, to the applicant for the delayed period of payment of leave encashment 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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