

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

Original Application No.4157 of 2013

This the 4th day of March, 2016

HON'BLE SHRI JUSTICE SYED RAFAT ALAM, CHAIRMAN

R. K. Shukla s/o N. N. Shukla,
R/o H.No.110/232, Jawaharnagar,
Kanpur-208012. ... Applicant

(By Shri M. K. Bhardwaj, Advocate)

Versus

1. Union of India through
Secretary (Revenue), Government of India,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi.
2. Chairman,
Central Board of Direct Taxes,
Department of Revenue,
Ministry of Finance,
Government of India,
North Block, New Delhi. ... Respondents

(By Shri Sunil Ahuja, Advocate)

O R D E R

In the instant Application under Section 19 of the Administrative Tribunals Act, 1985, the short grievance of the applicant is that his pension has not been revised as per recommendations of the Sixth Central Pay Commission w.e.f. 01.01.2006, nor the amount towards gratuity and leave encashment has been released, and, therefore, he has sought the following reliefs:

- "i) To direct the respondents to revise the pension of the applicant w.e.f. 1.1.2006 and pay all arrears along with interest @ 18% to the applicant.
- ii) To direct the respondents to pay gratuity, leave encashment, etc with interest @ 18% from due date.
- iii) To direct the respondents to extend CGHS facility to the applicant from the date of retirement.
- iv) To allow the OA with exemplary cost.
- v) To pass such other and further orders which their lordships of this Hon'ble Tribunal deem fit and proper in the existing facts and circumstances of the case."

2. I have heard Shri M. K. Bhardwaj, learned counsel for the applicant and Shri Sunil Ahuja, learned counsel appearing for the respondents.

3. At the outset, Shri Bhardwaj, learned counsel for the applicant, submitted that though the amount of gratuity and leave encashment has been paid now after filing of the OA, and the pension has also been revised, but the applicant is also entitled to get interest over the same on account of the unreasonable delay in disbursement of the retiral dues.

4. On the other hand, learned counsel for the respondents submitted that the entire retiral dues have been paid to the applicant; even his pension has also been revised as per Sixth CPC recommendations. He, however, submits that the delay in disbursement of the retiral dues occurred mainly due to the applicant's involvement in a criminal case, and only after his acquittal vide judgment dated 23.01.2010 of Special Judge, Tis Hazari, Delhi, the amount of gratuity and leave encashment has been

released. It is also stated that the provisional pension of the applicant was fixed immediately after his retirement and was being disbursed to him regularly. It is, therefore, argued that no fault on the part of the respondents could be attributed for the delay in the payment of retiral dues. The learned counsel for the applicant in rejoinder submitted that admittedly, the applicant was given clean acquittal by the Special Judge, Tis Hazari vide judgment dated 23.01.2010, and, therefore, there was no justification for withholding the retiral dues after the date of his acquittal, hence the respondents may be directed to pay interest at the rate of 18% on the delayed payment besides damages and compensation for withholding the retiral dues of the applicant for more than a decade. However, learned counsel for the respondents pointed out that copy of the judgment of acquittal was not supplied to the department and thus there is no slackness or laches on the part of the respondents.

5. I have considered the submissions made on both sides. It is not in dispute, as submitted by the learned counsel for both the sides that the entire retiral dues have now been paid to the applicant during pendency of this Application, and his pension has also been revised. In this regard, learned counsel for the respondents has produced copy of letter dated 29.02.2016 of AADIT(R)/CPIO, office of Additional Director General of Income Tax (Recovery), New Delhi addressed to Assistant Commissioner of Income Tax (HQ Litigation), office of Principal Chief Commissioner of Income Tax, New Delhi, showing the payment made to the applicant against the retiral dues.

6. However, Shri Bhardwaj, learned counsel for the applicant fairly stated that the retiral dues though paid, but interest accrued thereon has not been given. He, therefore, confines the claim of the applicant in this Applicant only in respect of payment of interest on delayed payment of the retiral dues.

7. It is well settled legal position of law that pension and retiral dues are not charity or bounty, and an employee earns these benefits by dint of his long service, and the same being hard-earned benefits in the nature of property cannot be taken away without due process of law. Reference in this connection be made to the recent decision of the Apex Court in *State of Jharkhand & others v Jitendera Kumar Srivastava & another* [(2013) 10 SCALE 310]. Further, in *S. K. Dua v State of Haryana* [(2008) 3 SCC 244] their Lordships while dealing with the issue of payment of interest on delayed payment of retiral dues, held that in the event of delay in payment of retiral benefits, the concerned retired government servant is entitled to get interest on the said amount. In the instant case, admittedly the applicant was cleared from the criminal charge vide judgment of the Special Judge, Tis Hazari, Delhi dated 23.01.2010, and, therefore, the respondents ought to have released the entire amount towards his retiral dues within a reasonable time, but not beyond three months, after his acquittal in the criminal case. Therefore, I am of the view that the respondents are liable to pay interest on the delayed payment of retiral dues w.e.f. 01.05.2010 till actual payment at the rate payable on GPF accumulations.

8. I accordingly dispose of this Application with the direction to the respondents to calculate the interest on the delayed payment of the applicant's retiral dues at the rate payable on GPF from 01.05.2010 till the actual payment. The amount so calculated shall be disbursed to the applicant within six weeks.

9. The OA accordingly stands disposed of, but without costs.

(Syed Rafat Alam)
Chairman

/as/