

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH:  
NEW DELHI**

O.A. No.4648 of 2015

Orders reserved on : 30.10.2018

Orders pronounced on : 16.11.2018

**Hon'ble Ms. Nita Chowdhury, Member (A)**

Khem Raj Sharma, Retd. Manager,  
Aged About 68 years,  
S/o Late Sh. Dhyan Chand Sharma,  
R/o Village & Post – Akbarpur, Tehsil – Naraingarh,  
District – Ambala, Haryana.

....Applicant

(By Advocate : Shri M.K. Bhardwaj)

VERSUS

UOI & Ors. through

1. The Secretary,  
Govt. of India,  
Ministry of Defence,  
South Block, New Delhi.
2. The Quarter Master General,  
Quarter Master General's Branch,  
Integrated HQ of MoD (Army),  
Sena Bhawan, New Delhi-11.
3. The Dy. Dir Gen of Mil Farms,  
Quarter Master General's Branch,  
Integrated HQs of MoD (Army),  
West Block Nc. III, R.K. Puram, New Delhi-110066
4. The Officer Incharge,  
EDP-G1, Civil, Computer Centre,  
Office of the Chief C&A (P),  
Draupati Ghati, Allahabad -211014.

.....Respondents

(By Advocate : Ms. Avinash Kaur)

**ORDER**

Heard learned counsel for the parties and perused the material placed on record.

2. By filing this OA, the applicant has sought the following reliefs:-

- “i) to direct the respondents to give interest @ 12% p.a. on the delayed payment of gratuity and arrears of pension.
- ii) to direct the respondents to recalculate all the retiral benefits of the applicant on the basis of pay scale of Manager and make necessary payments of interest @ 12% on the belated payment of gratuity and arrears of pension from Sept, 2007.
- iii) 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.”

3. The grievance of the applicant in this case is with regard to delay in making the payment of his retiral dues and consequently seeking grant of interest on delayed payment of his retiral dues.

4. The respondents have informed with regard to latest position of release of retiral dues to the applicant as follows, although the applicant was retired on superannuation on **31.7.2007**,-

SNo.	Payment of A/c	Amount (Rs.)	Date of Payment
1.	Arrears of P&A (P&A (RPR-08)	56274/-	30.09.10
	-do- (on suspension revoked)	37654/-	27.09.13
	-do- (re-fixation)	17812/-	28.03.14
	-do- (fixation on promotion)	11011/-	13.09.14
ii.	Leave Encashment	146810/-	07.07.08
	-do- (Diff. under RPR-08)	40700/-	30.09.10
	-do- (Diff. on promotion)	19400/-	21.05.14

iii.	CGEGIS	51072/-	11.02.08
iv.	GPF Final Settlement	920328/-/-	04.07.07
v.	Gratuity was withheld by the PCDA (Pension) due to non receipt of final judgment from Hon'ble Court, as the case was decided on 7.9.2011 and revocation of suspension of the applicant was ordered and suspension period is regularized vide order of April 2013 (Annexure R-1)		

5. The applicant has specifically averted in the OA that the amount of gratuity was released to him only in March 2015 but without payment of interest.

6. It is pertinent to mention here that applicant while working as Manager in the respondent's department was involved in a criminal case (FIR No.2/2005 dated 19.4.2005 u/s 7 and 13(2) of the Prevention of corruption Act at PS AC Zone, Solan Registered against the applicant and he was retained in judicial custody from 27.4.2005 (A/N) to 29.4.2005 and after registration of the said case, the applicant was placed under suspension w.e.f. 27.4.2005 and subsequently the said suspension was revoked and the applicant was reinstated in service w.e.f. 14.2.2006. The learned Special Judge, Solan passed judgment dated 29.12.2006 wherein the applicant was sentenced to undergo simple imprisonment for six months and to pay a fine of Rs.2000/- under Section 7 of the Prevention of Corruption Act and further simple imprisonment for one year and to pay a fine of Rs.3000/- under Section 13 (2) of the Act *ibid* and in

default of payment of fine on each count shall undergo simple imprisonment for 1 year and 2 months.

6.1 The applicant had filed an appeal against the above order of the learned Special Judge, Solan before the Hon'ble High Court of Himachal Pradesh vide order dated 20.3.2007 stayed the sentence part of the said judgment and finally vide judgment dated 7.9.2011 held that the learned trial court has gravely erred in convicting the applicant and accordingly, the said judgment of the learned trial Court was set aside and the applicant was acquitted and further held that the fine, if any, deposited shall be refunded to the applicant.

6.2 After receipt of the aforesaid order of the Hon'ble High Court of Himachal Pradesh, the applicant submitted his representation and also sent repeated representations and finally the respondents issued an order dated 26.4.2013 regularized the suspension period (w.e.f. 27.4.2005 to 13.2.2006 total 293) of the applicant as a period 'spent on duty with full pay and allowances' for all purpose. Thereafter on 18.5.2014, the respondents have issued the order for release of retirement gratuity in respect of the applicant and thereafter again a letter dated 18.9.2014 was issued by the Manager, Officer In charge of Ministry Form, Dagshai to the Officer Incharge EDP-G1/Civil Computer Centre, Office of the Chief CDA (P), Draupati Ghat, Allahabad wherein it is stated that

“2. It is submitted that the amendment/rectification regarding release of retirement gratuity (Rs.3410402) has not been made by your office in corrigendum PPO cited under reference for which this office had already requested to your office vide this office letter No.PF/Khem Ram Sharma/Dag dated 18 Mar 2014 (copy enclosed for perusal).”

3. The concerned officer is facing financial hardship and pressing hard for release the retirement gratuity as he had revoked from suspension.

4. In view of the above facts, your office is once again requested that whole retirement gratuity amount (Rs.341402/-) may please be released in favour of concerned officer at the earliest possible please.”

7. It is further relevant to mention that in the counter affidavit the respondents have stated that the aforesaid High Court (HP) Shimla judgment dated 7.9.2011 was considered by the Govt. of Himachal Pradesh and had not found fit for further appeal. Considering the above facts and decision of the Himachal Pradesh Govt. MOO-D (Lab) came to the conclusion that it would not be appropriate to initiate action against the applicant under Rule 9 of the CCS (Pension) Rules, 1972.

8. Having regard to aforesaid facts and circumstances of the present case, this Court is required to see as to whether the applicant is entitled to interest on delayed payment of his retiral dues. The following administrative instructions as reported under Rule 68 of CCS (Pension) Rules, 1972, as reported in Swamys Pension Compilation are of relevance with regard to the issues raised in this Application:-

## “GOVERNMENT OF INDIA’S DECISIONS

(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 of 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.]”

9. In view of the aforesaid, this Court does not find the stand of the respondents as sustainable in law. Upon acquittal of the applicant in the criminal case and the fact that respondents have themselves decided not to file appeal against the aforesaid Order of the Hon'ble High Court of Himachal Pradesh dated 7.9.2011 vide which the applicant was honourably exonerated, gratuity amount is deemed to have fallen due on the date following the date of retirement for the purpose of payment of interest on delayed payment of gratuity in terms of Government's decision referred to above. But for such a decision, the gratuity would have fallen due on the date of issue of the order of the competent authority but the respondents have taken undue time in issuance of the said order. The Government itself having taken decision to mitigate the hardship of the Government servants, like the

applicant, who, on the conclusion of the proceedings, is fully exonerated, the benefit thereof cannot be denied to the applicant in this case.

10. In the facts and circumstances and for the reasons stated above, I find merit in the applicant's claim. The respondents shall pay interest on the amount of gratuity in terms of Govt. of India Dept. of Per. & A.R., O.M. No.F. 7(1)-P.U./79, dated the 11th July, 1979 read with No.1 (4)/Pen. Unit/82, dated the 10th January, 1983. This exercise shall be completed within three months from the date of receipt of a certified copy of this order, failure to do so will entail further interest at the rate of 9% from the expiry of period of three months till the date of actual payment.

11. In the result, the present OA is allowed in above terms. There shall be no order as to costs.

**(Nita Chowdhury)**  
**Member (A)**

/ravi/