

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00108/2017

Thursday, this the 31st day of May, 2018

CORAM:

**Hon'ble Mr. U. Sarathchandran, Judicial Member
Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member**

K.J. Varghese,
S/o. Late K.V John, Aged 76 years,
Assistant Engineer (Retired),
Residing at Kallarimalil House, Block Road,
Mulanthuruthy P.O., Ernakulam. **Applicant**

(By Advocate – Mr. R. Sreeraj)

V e r s u s

- 1 Union of India,
Represented by its Secretary to the Government of India,
Ministry of Defence, New Delhi – 110 001.
- 2 The Engineer-in-Chief,
Military Engineer Services, New Delhi – 110 001.
- 3 The PCDA (P),
Draupathi Ghat, Allahabad – 211 001.
- 4 The CRO (Offrs),
C/o 56 APO, PIN – 900 106.
- 5 The Chief Engineer (NW) Kochi,
Military Engineer Service, Kochi – 4. **Respondents**

(By Advocate – Mr. N. Anilkumar, Sr. PCGC)

This Original Application having been heard on 24.05.2018, the Tribunal on 31.05.2018 delivered the following:

O R D E R

Per: U. Sarathchandran, Judicial Member

The short issue involved in this case is whether the applicant is entitled to interest on the delayed payment of retirement dues.

2. The applicant is now a 76 year old person. He had to retire in 2000 as Assistant Engineer/Surveyor Assistant Grade-I, two grades below he was entitled to. He had to approach this Tribunal for obtaining the promotions he ought to have got while in service. Finally by virtue of the order passed by this Tribunal applicant was promoted to the post of Executive Engineer (QS&C)/(SW) by a review DPC and was recommended for notional promotion as such against the vacancy year 1999-2000. Applicant in the meantime had to institute a contempt proceeding against the respondents but as he was recommended for promotion the contempt petition CP(C) No. 66/2009 was closed on 28.3.2011 with liberty to recourse to appropriate legal proceedings if needed. Thereafter the applicant was promoted to the aforesaid post with effect from 1.4.1999 and his pay was fixed at Rs. 11,625/- with effect from 1.4.1999 in the scale of pay of Rs. 10,000-15,200/-. DCRG and commuted value of pension was sanctioned to the tune of Rs. 8,031/- and Rs. 8,005/- respectively. On 15.2.2012 arrears to the tune of Rs. 52,447/- was disbursed to the applicant. On noting that the delayed payment did not carry interest the applicant raised the claim for interest but the respondent No. 3 noted in Annexure A4/9 as under:

"....In case the HOO is of the view that the payment of interest for delayed payment is required to be made the HOO will calculate the interest amount and obtain Govt. sanction for the same and forward the claim along with the sanction to this office duly verified by concerned accounts office....."

3. It is settled position that delayed payment of pension would attract interest payable to the pensioner. This view has consistently been taken by the Hon'ble apex court since the decision in *State of Kerala v. M.*

Padmanabhan Nair – (1985) 1 SCC 429. The same view was taken by the apex court in *S.K. Dua v. State of Harayana* – (2008) 3 SCC 44 and *Dr. Uma Agarwal v. State of U.P.* - (1999) 3 SCC 438. This view has been reiterated by the Hon'ble Supreme Court in *D.D. Tewari (dead) through L.Rs v. Uttar Haryana Bijli Vitran Nigam Limited & Ors.* - (2014) 8 SCC 894.

4. In *Union of India v. Justice S.S. Sandhawalia* – (1994) 2 SCC 240 it was observed by the apex court that "once it is established that an amount is legally due to a party was not paid to it, the party responsible for withholding the same must pay interest at the rate considered by the court". In *S.K. Dua's* case (supra) the apex court applied the Constitutional provisions for liability to pay interest on the delayed payment of pensionary benefits. The apex court observed:

".....It even in the absence of 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....."

5. Rule 68 of the CCS (Pension) Rules, 1975 prescribes interest on delayed payment of gratuity in all cases where payment of gratuity has been authorised later than the date when its payment becomes due and if the delay is attributable to the administrative reasons or lapses.

6. In the facts and circumstances of the case, it is obligatory on the part of the respondents to pay interest on the delayed payment of retirement dues including gratuity. In the light of the apex court decision in *State of U.P. &*

Ors. v. Dhirendra Pal Singh – JT 2016 (11) SC 9, we direct the respondents to pay 6% interest on the delayed pension and 8% interest for the delayed gratuity. Ordered accordingly.

7. The Original Application is allowed as above. There shall be no order as to costs.

**(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER**

“SA”

**(U.SARATHCHANDRAN)
JUDICIAL MEMBER**

Original Application No.180/00108/2017**List of Annexures of the Applicant**

Annexure A-1- True copy of the final order dated 03.08.2005 in OA 12/2004 on the file of this Hon'ble Tribunal.

Annexure A-2- True copy of the Letter No. B/42033/R-DPC/ASW/1994-95 to 2004-05/EI(DPC-I) dated 30.01.2009 issued on behalf of the 2nd respondent.

Annexure A-3- True copy of the final order dated 28.03.2011 in CP 66/2009 in OA 12/2004 on the file of this Hon'ble Tribunal.

Annexure A-4
Series- True copy of the correspondence between the applicant and the respondents.

List of Annexures of the Respondents

Annexure R1(a)- True copy of the Rule 68 of CCS Pension Rules and Government of India's decision on it as per Swamy's Pension Compilation.
