

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

**O.A.NO. 060/00519/2017    Date of order:- 28.3.2018.**

Coram: **Hon'ble Mr. Sanjeev Kaushik, Member (J)**

Kaushalya Devi w/o late Sh. Gangadhar, Ex.PWI/C BKN, r/o 629-A,  
TRD Railways Colony, Jalandhar City, Punjab.

.....Applicant.

( By Advocate :- Mr. Rohit Seth )

Versus

1. Union of India through the General Manager, Northern Railway Headquarters, Baroda House New Delhi.
2. Divisional Railway Manager, Northern Railway, SE Road, New Delhi.
3. Deputy Chief Engineer(Construction) Northern Western Railways, Kothi NO.30, Opposite Dholla Maru Hotel, Bikaaner.

...Respondents

( By Advocate : Shri Lakhinderbir Singh ).

**ORDER**

**Sanjeev Kaushik, Member (J):**

By way of present Original Application, the applicant seeks issuance of direction from this Tribunal to direct the respondents to grant interest on the amount of gratuity which was payable to her late husband, but the same has been paid in March, 2017.

2. The present petition has been filed by Kaushalya Devi wife of late Shri Gangadhar, who was worked as Ex.PWI/C Bikaner under the respondent department in the office of Deputy Chief Engineer (Construction) and retired on 31.8.1995. It is the case of the applicant that at the time of retirement of her husband due to non-issuance of NOC on account of shortage of store items, her husband was not given full retiral benefits as admissible to a regular employee. He was paid amount of insurance policy, leave encashment and provident fund only. He was paid provision pension and full gratuity amount was withheld. An FIR No.34 of 1996 under Sections 120B, 406, 409 read with 420 of IPC was registered against the husband of the applicant as well as contractor for shortage of store items by the Central Bureau of Investigation. The Special Court, CBI vide its judgment dated 4.3.2005 acquitted from the charges. Immediately thereafter, the husband of the applicant submitted representations for release of gratuity amount on being acquitted in the criminal case. Pending claim, the husband of the applicant expired on 15.11.2012. Thereafter, the matter was taken up by the applicant by submitting various representations. Ultimately, the respondents on 30.3.2017 released the amount to the tune of Rs.80,985/- towards gratuity and other dues without interest. Hence the present OA.

3. The respondents while contesting the claim of the applicant did not dispute the factual accuracy. However, they submitted that since the criminal case was pending against the husband of the applicant at the time of his retirement, therefore, in

terms of rule formation, they withheld the gratuity amount. It has also been submitted therein that they have not received any representation as indicated in the OA except in the year 2014 when they informed that since the old record pertaining to 1995 has been weeded out, it is not possible to know whether the employee was paid his gratuity or not. It is thereafter the respondents have released the gratuity amount without interest. They have justified their stand that due to pendency of criminal case, the respondents have not released gratuity amount.

4. The applicant has filed a rejoinder wherein she submitted that immediately after acquittal in criminal case on 4.3.2005, the husband of the applicant made a number of representations for release of gratuity amount along with interest in terms of various judicial pronouncements in the case of **Daulat Singh versus State of Punjab & Ors.** ( C.W.P.No.26933 of 2014) decided on 23.7.2016; judgment passed by the Hon'ble Apex Court in the case of **Y.K.Singla versus Punjab National Bank & Ors.** ( Civil Appeal No.9087 of 2012 ) decided on December 14, 2012 and judgment passed by the jurisdictional High Court in the case of Natha Singh versus **Central Administrative Tribunal, Chandigarh & Ors.** (CWP No.219 of 2016) decided on 30.1.2017.

5. I have heard the learned counsel for the parties and have perused the material placed on record.

6. Shri Seth, learned counsel appearing on behalf of the applicant vehemently argued that the action of the respondents in not awarding interest on the gratuity amount is not only illegal, arbitrary, but also against the judicial pronouncements wherein it has been held that if the amount of gratuity has been withheld on account of criminal case, then if the employee is acquitted, the delinquent employee becomes entitled for award of interest from the date when the gratuity amount is payable to the employee. Therefore, Shri Seth prayed that respondents be directed to award interest on the amount of gratuity from the date of his retirement till the actual payment was made to the applicant.

7. Per contra, Shri Lakhinderbir Singh, Advocate, appearing on behalf of the respondents has reiterated what has been stated in the written statement.

8. Having completed all the codal formalities, having heard the learned counsel for the parties, having gone through the record on board and legal provisions with their valuable assistance.

9. The solitary issue that arose for my consideration is whether in given facts, the applicant is entitle for award of interest on amount of gratuity or not ? Admittedly, husband of the applicant retired on 31.8.1995 on attaining the age of superannuation. He was not issued NOC because of initiation of criminal case, which ultimately culminated in FIR NO. 34 of 1996. In the criminal case, the husband of the applicant was acquitted vide judgment dated

4.3.2005. Though the averment made by the applicant that she is pursuing the matter for release of gratuity amount has been denied by the respondents, but the fact remains that the husband of the applicant was acquitted on 4.3.2005. Since the criminal case has been initiated on a complaint made by the department, therefore, the department cannot be said to be ignorant about the judgment passed by the Criminal Court. As per settled proposition of law, if an employee is deprived of utilizing the admissible amount by the department for one reason or the other, then the department is liable to pay interest thereupon as compensatory in nature. The principle to award interest is based on the premise that amount payable to a person is retained by other and the later utilized for its own purpose. The interest is paid to compensate the person for the period during which he is deprived of his own amount. Applying such principle, the applicant is entitled to interest on the gratuity amount which was payable to the husband of the applicant in the year 1995 was actually paid on 30.3.2017. The gratuity remained with the respondents during this period and they continued to earn interest thereupon.

10. Therefore, I am of the view that once the husband of the applicant was acquitted in a criminal case for which the amount of gratuity has been withheld, therefore, after the death of deceased employee, his wife i.e. the present applicant becomes entitled for interest commencing three months after the date of retirement of husband of the applicant @ 8% per annum till its realization i.e. 30.3.2017. My view also find support from the judgment passed by the Hon'ble Apex Court in the case of Y.K.Singla(supra) where the

similar controversy of withholding of gratuity amount pending criminal case came up for hearing and the Lordships have held that if in criminal case, an employee is acquitted from the charges, then he/she become entitled for award of interest.

11. The OA is allowed with the above directions. The above exercise be carried out within one month from the date of receipt of certified copy of this order. No costs.

**(SANJEEV KAUSHIK)**  
**MEMBER (J)**

Dated:- March 28, 2018.

Kks

