

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

O.A. No.60/1000/2017

Date of decision: 20.03.2018

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CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).

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Khushali Ram Sharma, Lecturer age 60 years (Retd.) from Govt. Model Senior Secondary School, Sector-26 TM, Chandigarh (Group A) & resident of House No.2397, Sector 19-C, Chandigarh

...APPLICANT

VERSUS

1. Union Territory, Chandigarh through its Administrator, Punjab Raj Bhawan, Sector 6, Chandigarh.
2. The Secretary Education, Chandigarh Administration, UT Secretariat, Sector 9, Chandigarh.
3. The Director School Education, Chandigarh Administration, Sector 9, Chandigarh.
4. The Accountant General (Indian Audit & Accounts Department), Plot No.20, Sector 17, Chandigarh.
5. The District Education Officer, Chandigarh Administration, Sector-19, Chandigarh.
6. The Principal, Government Model Senior Secondary School, Sector-26, TM, Chandigarh.

...RESPONDENTS

PRESENT: Applicant in person.

Sh. Gagandeep Singh Chhina, counsel for respondents no.1 to 3, 5 & 6.

Sh. Harmanjeet Singh, counsel for respondent no.4.

ORDER (Oral)

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SANJEEV KAUSHIK, MEMBER (J):-

1. Present OA has been filed with a prayer to direct the respondents to pay retrial benefits i.e. pension, commutation of pension, death cum

retirement gratuity, leave encashment and group insurance along with interest applicable to General Provident Fund.

2. Facts are not in dispute. The applicant who commenced his service in respondent department retired as Lecturer on attaining the age of superannuation on 31.01.2015, but continued in service on extension. He was relieved on 31.01.2017, after expiry of extended period. After his retirement, he waited for three months but when respondents did not release his retiral benefits, he served legal notice dated 06.05.2017. The same was not answered by the respondents. Thereafter, vide order dated 20.06.2017 (Annexure A-10), in terms of Rule 2.2 (C)(1) of Punjab Civil Service Rules Vol.II the respondents sanctioned provisional pension in favour of the applicant from the date of his retirement i.e. 30.01.2017. When the same was not released, applicant was forced to file the present O.A.
3. On the first date when matter came up for preliminary hearing, being nodal officer Sh. Arvind Moudgil, Advocate, accepted notice, respondents were directed to release retiral benefits of the applicant in terms of order dated 20.06.2017 (Annexure A-10). Learned counsel for the applicant submitted that thereafter respondents have released the same on 18.11.2017, but without the element of interest. He argues that since respondents have withheld his amount, without any valid reason, therefore, they are liable to pay interest.
4. Sh. Gagandeep Singh Chhina did not dispute factual accuracy. However, he submitted that since two FIR Nos.144 and No.147 were pending against the applicant, therefore, they had withheld his retiral benefits.

5. In rebuttal, applicant submitted that averment made by the respondents is wrong as FIR No.144 registered at P.S.-3 has already been closed vide order dated 13.02.2014 i.e. much before his retirement. He also submitted that in other FIR department has already moved application to get it close as the earlier FIR under the same Section has been closed. Therefore, he submitted that this ground is not available to respondents to withheld amount.
6. Having completed all the codal formalities, having heard learned counsel for the parties, having gone through the record and legal provisions with their valuable assistance, I am of the view that petition deserves to be allowed for the reason that it is not in dispute that as per instructions issued by Chandigarh Administration, extension beyond retirement is available to only those employees against who no departmental or criminal case is pending. In present case, the applicant was given two years extension beyond retirement. If his record was not good, he should not have been given extension, therefore, the plea raised by the respondents is against the record. Since respondents have withheld amount for which applicant is legally entitled without there being any valid justification or reason, which they have paid almost after 8 months, therefore, they are liable to pay interest on the said amount. It is settled proposition of law that if a person is deprived of to use money which actually belonging to him without any authority, then the authorities are liable to pay interest as interest is more of compensatory in nature. Reliance in this regard is placed on **Associated Cement Co. Ltd vs Commercial Tax Officer, Kota &**

Ors., AIR 1981 SC 1887 and in qcase of **Meghavarani Sharma Vs. State of U.P. & Others** 2015 (4) SLR 412.

7. Accordingly, the O.A. is allowed. Respondents are directed pay interest @8% p.a. on delayed payment from the date it became due (by excluding three months period from retirement) till its actual realization. The above exercise be carried out within a period of two months from the date of receipt of certified copy of this order.

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 20.03.2018.
Place: Chandigarh.

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