

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO. 291/52/2017

Order Reserved on: 10.09.2018

DATE OF ORDER: 25.09.2018

CORAM

HON'BLE MR. A. MUKHOPADHAYA, ADMINISTRATIVE MEMBER

Surendra Singh Vyas S/o late Shri Bhawani Shankar Vyas, aged about 74 years, R/o Kaila Colony, Gali No. 2, Dholpur, Rajasthan earlier working as Sub Post Master, Bayana, District Dholpur, Rajasthan.

....Applicant
None present for the applicant.

VERSUS

1. Union of India through its Secretary, Department of Posts, Dak Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Department of Posts, Dak Bhawan, Jaipur.
3. Superintendent of Post Office, Department of Posts, Dholpur Division, Dholpur, Rajasthan.

....Respondents
Mr. N.C. Goyal : counsel for respondents.

ORDER

Briefly, the facts of the case are that the applicant who superannuated on 31.10.2003 was not paid his gratuity of Rs. 1,90,212/- and commuted value of pension of Rs. 1,24,268/- at the time of superannuation on account of a criminal case registered against him by the respondent-department being sub-judice in the court of competent jurisdiction. Subsequently, on being acquitted from all charges in the criminal case on 22.06.2011, (Annexure A/7), he received payment of the

amounts of gratuity and commuted value of pension as above in February, 2012 but did not receive any interest for the delay in payment from 01.11.2003, (i.e. the day after his superannuation) till the date of payment. Aggrieved by the same, he has filed this Original Application, (OA), seeking the following reliefs: -

"It is therefore prayed that the present original application made by the applicant may kindly be allowed and the order Annexure A/1 (No. C7/90/2003 dated 29.09.2016) may be quashed and set aside. The respondents may kindly be directed to release payment of interest over the gratuity and commutation of pension @ 18% p.a. compound from 01.11.2003 to February, 2012. The respondents may further be directed to make the payment of legal expenses incurred to contest the case and payment of T.A. and D.A. and leave salary for attending the court case.

Any other relief or direction which this honourable tribunal deems fit in the facts and circumstances of the case may also be passed in favour of applicant."

Subsequent to the filing of the O.A., the applicant has received the interest payable to him on the gratuity portion of his claim, (as confirmed by both the counsels for the applicant as well as the respondents), and therefore the dispute which is the subject matter of this O.A. is now limited only to the question of payment of interest on the commuted value of the pension (i.e. Rs. 1,24,268/-) paid to him in February, 2012.

2. In their reply, the respondents have confirmed that on the basis of an FIR lodged by them against the applicant, a criminal case under Sections 420, 467, 468, 471 and 120 (B) of the IPC was initiated in criminal court and since these criminal proceedings were not finalised before the retirement of the applicant, payment of DCRG (gratuity) of Rs. 1,90,212/- was

withheld as per rules. When the applicant was acquitted by the criminal court on 22.06.2011, he was duly paid the DCRG amount as well as interest of Rs. 1,25,540/- on the delayed payment of gratuity as per Rule 68 (2) of the CCS (Pension) Rules, 1972 at the rate applicable to GPF deposits.

3. The issue under dispute in this O.A. namely whether interest is payable on the delayed payment of the commuted value of pension, was addressed by both the counsels for the applicant and the respondents during the arguments.

4. Counsel for the applicant, while presenting his arguments on 07.09.2018 cited the following judgments in favour of his plea to the effect that interest at the 'statutory' rate, i.e. the rate payable on GPF deposits is payable on the delayed payment of the commuted value of pension: -

(i). Hon'ble High Court of Delhi order dated 29th July, 2015 in W.P. (C) No. 7131/2015 (Union of India & Anr. vs. U. Rai Arya).

(ii). Central Administrative Tribunal, Jaipur Bench order dated 05.09.2013 in OA No. 204/2012 (Ramesh Chandra Gupta vs. Union of India & Ors.).

(iii). Hon'ble High Court, Calcutta, order dated 13.04.2017 in WP No. 585/2014 (Goutam Nandi vs. United Bank of India & ors.).

(iv). Hon'ble High Court of Rajasthan at Jaipur order dated 08.09.2017 in D.B. Civil Writ Petition No. 9211/2017 (Union of India & Ors. vs. K.P. Meena).

Citing the order dated 29th July, 2015 passed by the Hon'ble High Court of Delhi at New Delhi in W.P. (C) No. 7131/2015, (Union of India & Anr. vs. U. Rai Arya), counsel for the applicant drew attention to the Hon'ble court's observation made in para (9) of the order that "in case criminal proceedings concludes in the conviction of an employee, it can be deemed as delay caused on account of the fault of the employee, but in case the proceeding concludes in acquitted, employee cannot be faulted." Thus, counsel for the applicant argued that, in the present case, the delay in payments was squarely the fault of the respondents and certainly not the fault of the applicant/employee who was acquitted of all the criminal charges brought against him by the respondent department. As such therefore, the respondents were liable to make good the loss suffered by the applicant/employee and pay him interest on the delayed payment of the commuted value of pension.

Further, citing the order dated 05.09.2013 passed by the Central Administrative Tribunal, Jaipur Bench in OA No. 204/2012, (Ramesh Chandra Gupta vs. Union of India & Ors.), counsel for the applicant pointed out that in the case in question, simple interest at the rate of 12% per annum was allowed on the delayed payment of commuted value of pension. The Tribunal cited the judgment passed by the Hon'ble Supreme Court in the case of Vijay L. Mehrotra vs. State of U.P. & Ors. reported in JT 2000 (5) SC 171 in which the Hon'ble Supreme Court had observed that simple interest at the rate of 18% with effect

from the date of retirement till the date of payments would be payable on delayed payments of retiral benefits and that the retiral benefits referred to in the case included commuted value of pension. In another case, (O.P. Gupta vs. Union of India & Ors. reported in AIR 1987 Supreme Court 2257), the Hon'ble Apex Court observed that "normally, this Court, as a settled practice, has been making direction for payment of interest at 12% on delayed payment of pension".

Counsel for the applicant then referred to the order dated 13.04.2017 passed by the Hon'ble High Court at Calcutta in WP No. 585/2014 (Goutam Nandi vs. United Bank of India & ors.) and order dated 08.09.2017 passed by the Hon'ble High Court of Rajasthan at Jaipur in D.B. Civil Writ Petition No. 9211/2017, (Union of India & Ors. vs. K.P. Meena), to argue that subsequent judgments had now limited the interest payable on retiral benefits like commuted value of pension to the 'statutory' rate, (i.e. the rate payable on GPF deposits), and that as per this dispensation, interest at the rate of at least 8% per annum should be payable on the commuted value of pension involved in this case.

5. In response, counsel for the respondents, while not denying the judicial orders as cited by the applicant's counsel as above, pointed out that there is no specific rule/provision for payment of interest in the case of delayed payment of the commutation value of pension as opposed to the case where payment of gratuity is delayed because while there is a clear

provision in Rule 68 (2) of the CCS (Pension) Rules, 1972 for payment of interest on delayed payment of gratuity, the rules are silent on any corresponding payment of interest in the case of delayed payment of the commuted value of pension. Thus, in the absence of a specific rule, such payment should not be made.

6. The material on record and the arguments propounded by both counsels for the applicant and the respondents were considered.

7. While it is undisputed that there is no specific rule for paying interest for delayed payment of the commuted value of pension, it is also an admitted position with both the parties that the Hon'ble Apex Court and the Central Administrative Tribunal have already adjudicated upon this matter and have held that where the delay in question is not attributable to the employee and thus where he is not at fault for the same, he becomes entitled to receive interest on the delayed payment of retiral benefits like the commuted value of pension. As far as the question of the rate of interest payable is concerned, the claim of the applicant as argued by his counsel that the 'statutory' rate of interest i.e. rate of interest payable on GPF deposits at the rate at least 8% per annum represents a fair value.

8. Accordingly, the present Original Application, which as stated earlier relates only to the payment of interest on the commuted value of pension, is allowed with a direction to the

respondents that simple interest at the rate of 8% per annum be paid to the applicant from 01.11.2003 upto 07.02.2012; (i.e. the date prior to the issue of the order for payment of the commuted value of pension – Annexure A/8 refers).

9. There will be no order as to costs.

**(A. MUKHOPADHAYA)
ADMINISTRATIVE MEMBER**

Kumawat