

**CENTRAL ADMINISTRATIVE TRIBUNAL,  
MUMBAI BENCH, CAMP AT NAGPUR.**

**O.A.2048/2013  
and  
O.A.2047/2013**

**DATED THIS MONDAY THE 24TH DAY OF SEPTEMBER, 2018.**

**CORAM: DR.BHAGWAN SAHAI, MEMBER (A) .**

Mithilesh Kumar Srivastava  
S/o late Sharda Prasad Srivastava,  
aged about 65 years, Resident of  
Flat No.110, Kalyan Apts.,  
Sector 24, Indira Nagar,  
Lucknow (UP)-226016.

.. Applicant in  
OA.2048/2013.

Avinash S/o Shriram Bhusari,  
aged about 66 years,  
Resident of Plot No.29,  
NIT Layout, Trimurty Nagar,  
Nagpur - 440 022.

.. Applicant in  
OA.2047/2013.

**( By Advocate Shri D.N. Mathur ).**

**Versus**

1. Mineral Exploration Corporation  
Limited, through its  
Chairman-Cum-Managing Director,  
Dr.Baba Saheb Ambedkar Bhavan,  
Seminary Hills, Nagpur-440 006.
2. Union of India,  
through its Secretary,  
Ministry of Mines,  
Shastri Bhavan,  
New Delhi - 110 011.

.. Respondents  
in both the OAs.

**( By Advocate Shri M.D. Samel ).**

**Order reserved on : 29.08.2018  
Order delivered on : 24.09.2018.**

**O R D E R**

1. The applicant, Shri Mithilesh Kumar  
Srivastava, through O.A.No.2048/2013 seeks direction

to respondent No.1 to pay him interest @ 18% per annum on arrears of Rs.1,61,413/- from date when these arrears were disbursed to existing officers (those in service with the respondent no.1) in 2008 till 16.07.2012, when the arrears were paid to the applicant and to allow the applicant cost of this application from the respondents.

**1(a).** The applicant Shri Avinash Shriram Bhusari, through O.A.2047/2013 seeks direction to respondent No.1 to pay him interest @ 18% per annum on arrears of Rs.2,65,259/- from dates when the arrears were disbursed to existing officers (those in service with respondent no.1) in 2008 till 28.12.2011, when the payment was made to him and also to allow him the cost of the application from the respondents.

**1(c).** Both these OAs deal with common subject matter and, therefore, they have been heard together and are being decided accordingly.

**2.** Facts of the case in brief:

**2(a).** The applicant in O.A.2048/2013, Shri Srivastava was employed with Mineral Exploration Corporation Limited, Seminary Hills, Nagpur. He retired as Manager (Drilling) on 31.07.2005. The applicant in O.A.2047/2013, Shri Avinash Bhusari was also employed with Mineral Exploration Corporation Limited, Nagpur. He retired on 31.07.2006. The respondent No.1, Mineral Exploration Corporation

Limited, with prior approval of the Government of India implemented 1997 wage revision for its regular employees vide order dated 25.08.2006 but allowed the arrears thereof from 01.04.2003 only as per para 15 of the order. The first instalment of arrears of wage revision for the period from 01.04.2005 to 31.07.2006 was paid immediately to the employees who were on roll as on 01.04.2005. Payment of second instalment of such arrears from 01.04.2003 to 31.03.2005 to those who were on roll as on 01.04.2003 was made later in 2008. However, the second instalment of wage revision was not released to the applicants although they were in service on the cut of date i.e. 01.04.2003. Shri M.K. Srivastava (O.A.2048/2013) was paid the second instalment on 16.07.2012 and Shri Arvind Bhusari (O.A.2047/2013) was paid on 28.12.2011. This release of the second instalment of wage revision arrears was made to them only after they instituted legal proceedings against the respondent No.1 before this Tribunal and the Hon'ble Bombay High Court, Nagpur Bench. Both these applicants are, therefore, seeking interest from the Mineral Exploration Corporation Limited for the period of delay in paying them the second instalment of the wage revision.

**3.**        Contentions of the parties:

The applicants' advocate has pleaded that -

**3(a).**     both the applicants were eligible for payment of both the instalments of 1997 wage revision. While they were paid the first instalment of arrears of the wage revision immediately after the decision of 25.08.2006, the second instalment was not released to them alongwith other officers in 2008 although both of them were entitled for it. They were paid the second instalment only on 16.07.2012 and 28.12.2011;

**3(b).**     the applicants represented to the respondent No.1 for payment of interest on late payment of the wage revision arrears but their request was turned down on 25.11.2012 and 20.12.2012 respectively, stating that neither this Tribunal nor the Hon'ble High Court in their decisions has granted payment of interest on the arrears of wage revision;

**3(c).**     the applicants' advocate has been liberal in citing 15 case laws, all of which I have perused. However, it is to be noted that while a few of them dealt with payment of interest on clubbed arrears of pay and retiral benefits, in others the view taken was not based on facts similar to those of the present applicants i.e. with respect to payment of interest on delayed release of wage revision arrears.

The respondents' advocate has submitted that -

**3(d).** the facts about the applicants' service with the Mineral Exploration Corporation Limited, their retirement on superannuation and release of two instalments of pay revision arrears to them are not disputed;

**3(e).** however, initially the applicants alongwith others had sought payment of arrears from 1997. The dispute ultimately was decided by the Hon'ble Supreme Court on 03.12.2014, when the cut off date for payment of 1997 wage revision attained finality i.e. it was to be 01.04.2003 and no arrears for period prior to it were to be paid;

**3(f).** the arrears paid to the applicants subsequently were accepted by them unconditionally and, therefore, their claim for payment of interest is not justified;

**3(g).** none of the other employees placed similarly with the present applicants has been paid interest on arrears of the wage revision; and

**3(h).** also the delay in payment of second instalment of the wage revision arrears to the applicants was because of pendency of similar cases before this Tribunal and the Hon'ble High Court;

**3(i).** in the Civil Appeal No.10697/2014 filed by the respondents against some of the ex-employees who

had retired before 01.04.2003 and to whom the notional benefit was granted by this Tribunal and upheld by the High Court also came to be set aside by the Hon'ble Supreme Court. Thereafter the 1997 wage revision for the employees of the Mineral Exploration Corporation Limited were implemented as per the office order dated 25.08.2006. This order was based on the approval of the Government of India vide letters dated 08.08.2006 and 17.08.2006. In Para 15 of that office order, it was categorically mentioned that the wage revision arrears from 01.04.2005 to 31.07.2006 would be paid immediately. With regard to payment of arrears of wage revision for the period of 2003-04 and 2004-05, the Government will review physical/financial performance of MECL as per the recommendations of the BRPSE and its fund flow position, and may permit MECL to pay the same in 2007-08 from its internal resources, subject to achievement of physical/financial projections and availability of sufficient cash to meet the liability. This order further mentioned that the executives who were on roll as on 01.04.2005 would be entitled for wage revision and arrears thereof till their date of separation; and

3(j). in decisions of this Tribunal in Dr.Anal Kumar Sinha & 3 others in O.A.2020/2012,

O.A.2021/2012, O.A.2025/2012 and 2041/2012 it has been held that the applicants shall not be entitled to claim interest on the arrears of wage revision and decision of the Hon'ble High Court dated 03.03.2014 upheld the order of the Tribunal as being just and proper and, therefore, the Writ Petition was dismissed. In view of these case laws, the claim of the applicants deserves to be dismissed.

**4.** Analysis and conclusions:

**4(a).** I have considered the pleadings/contentions advanced by both the advocates. I have also perused carefully the O.A. memos, reply filed by the respondents dated 28.08.2015 in both the OAs, decision of this Bench dated 02.08.2012, and subsequent decision of the Bombay High Court, Nagpur Bench dated 10.03.2014. I have also studied the case laws cited by the advocate for the applicants.

**4(b).** In the order dated 25.08.2006 there is no mention for payment of interest on the arrears of the wage revision which were to be paid in two instalments. The claim of the respondents in the reply dated 28.08.2015 in para 1 is correct that the present applicant i.e. Shri Avinash S. Bhusari suppressed the material facts about previous orders passed by this Tribunal as well as High Court on similar claim made by other employees viz. Anal Kumar Sinha and 3 others in which the Tribunal

rejected their request for payment of interest on amount of arrears of wage revision.

**4 (c) .** In the decisions of the Hon'ble High Court in bunch of 27 Writ Petitions it was held that in the decision of the Tribunal dated 04.08.2010 there was no error. In the decision dated 03.04.2014 on 9 Special Appeals, the Apex Court has also held that the cut off date for implementing the 1997 wage revision i.e. 01.04.2003 was not arbitrary and not violative of Article 14 of the Constitution and that those employees who superannuated or voluntarily retired prior to 01.04.2003 from the Corporation are not entitled to notional wage revision. This contention of the respondents is also correct.

**4 (d) .** The contention of the respondents that they could not pay the second part of the arrears of wage revision i.e. 01.04.2003 to 31.03.2005 to the applicants because of ongoing litigation by the other employees of the respondent Corporation is also justified. Since as various OAs were filed before the Tribunal in 2012 and the Writ Petitions were filed in 2013 in the Hon'ble High Court and the Civil Appeal against the decisions of the Tribunal and High Court were filed in the Hon'ble Supreme Court in 2014, therefore, the claim of the applicants does not appear to be justified. While the second instalment of the arrears was paid to



Shri Avinash S. Bhusari on 28.12.2011 and to Shri M.K. Srivastava on 16.07.2012, but as the applicant Shri Bhusari was one of the parties in the litigation before the Tribunal and the Hon'ble High Court, the applicants cannot claim that there was no justifiable cause for the respondents to take longer time to pay them the second part of the 1997 wage revision arrears.

**4(e).** As mentioned in Para 15 of the order of respondent No.1 dated 25.08.2006 about implementation of the wage revision, and in para 5 of the Supreme Court decision in Civil Appeal No.10697/2014 alongwith 4 other Civil Appeals, the respondent No.1 i.e. Mineral Exploration Corporation Limited had incurred losses from 1992 to 2009. Therefore, it could release arrears of the 1997 wage revision only based on its financial position and as per the approval of the Government of India.

**4(f).** Also as held in **A.K. Bindal and another Vs. Union of India and others (2003) 5 SCC 163**, the identity of Government Companies is distinct from the Government and as held in **Officers & Supervisors of I.D.P.L. Vs. Chairman and M.D., I.D.P.L. And others (2003) 6 SCC 490**, the economic capability of the employer also plays a crucial part in payment of higher remuneration/emoluments and revision of wages to workers in the Government Companies/Undertakings.

**4 (g) .** In the aforesaid case law decided on 03.12.2014, the Apex Court has also held that as the 1997 wage revision came to be implemented from 01.04.2003, the employees who had retired prior to that date are not entitled even to notional wage revision. Keeping in mind the view taken in the above decisions of the Apex Court and the financial situation of respondent No.1 from 1992-2009, denial of payment of interest on late payment of the second instalment of the wage revision arrears to the applicants is fully justified and proper. The facts / contexts in various case laws cited by counsel for the applicants are also not similar to the present case. In view of these facts of the case, the present OAs are devoid of merit and have been filed unnecessarily.

**5. Decision-**

The O.A.2048/2013 and O.A.2047/2013 filed by Shri M.K. Srivastava and Shri A.S. Bhusari are dismissed. No order as to costs.

**(Dr.Bhagwan Sahai)**  
**Member (A) .**

H.