

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

O.A. No.60/140/2018

Date of decision: 26.02.2019

...

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

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Purshotam Lal Son of Sh. Mohan Lal, age 61 years, R/o H. No.180, Raja Garden, Post Office Satnam Pura, Phagwara, District Kapurthala.

**... APPLICANT
VERSUS**

1. Union of India through its General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Ferozepur Division, Ferozepur.

... RESPONDENTS

PRESENT: Sh. D.R. Sharma, counsel for the applicant.
Sh. Sanjay Goyal, counsel for the respondents.

ORDER (Oral)

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SANJEEV KAUSHIK, MEMBER (J):-

1. Present O.A. has been filed by the applicant assailing order dated 4.12.2017 (Annexure A-1), whereby respondents have rejected his request to award interest on delayed payment of Gratuity and Leave Encashment.
2. Facts are not in dispute.
3. Admittedly, the applicant retired on attaining the age of superannuation on 31.10.2016. On the eve of his retirement, respondents have granted him commuted value of pension on 1.11.2016 but have not paid amount of gratuity, which as per submission of learned counsel for the applicant was paid on

11.10.2017 and amount of leave encashment was paid on 25.5.2017. Therefore, applicant is before this Court for award of interest on these elements based on Rule 87 of Railway Servants (Pension) Rules, 1993, which provides for payment of interest on delayed payment of gratuity to the employee.

4. Sh. D.R. Sharma, learned counsel for the applicant submitted that once respondents have withheld amount for no fault of the applicant and paid after a considerable delay without any lawful reasons, therefore, he becomes entitled to interest @18% on delayed payment from the date it became due till its realization. To buttress his claim, he relied upon the judgments in the case of **S.K. Dua vs. State of Haryana** 2008 SCC 44, **D.S. Nakara & Ors. vs. UOI & Ors.** AIR 1983 SC 130, **State of Kerala and Ors. vs. M. Padmanabhan Nair**, 1985 1 SCC 429, **U.O.I. vs. Justice S.S. Sandhawalia**, 1994 2 SCC 240, Uma **Agrawal (Dr.) vs. State of U.P.** 1999 3 SCC 438, **Bal Kishore Mody vs. Arun Kumar Singh** 2001 10 SCC 174 and **Gaziabad Development Authority vs. Balbir Singh**, 2004 5 SCC 65.
5. Per contra, Sh. Sanjay Goyal, learned counsel for the respondents submitted that since applicant was drawing excess pay at the time of retirement, therefore, respondents have withheld amount of gratuity and leave encashment. He submitted that respondents have to recover a sum of Rs.66,000/- on account of his option to continue Railway Employees Liberalized Health Scheme (RELHS) and Rs.50,000/- they have to retain as Commercial debt, Rs.3106/- were recovered as over-payment due to pay revision. Therefore, he submitted that there is no delay on the part of the respondents.

6. Sh. D.R. Sharma, submitted that since entire amount of gratuity amounting to Rs.10,89,000/- was withheld by the respondents to which as per them was on account of recovery to be made from applicant, therefore, respondents may be directed to pay interest on the amount of gratuity i.e. Rs.9,61,824/- paid on 11.10.2017 and leave encashment paid in May 2017 to the applicant because the applicant has been denied use of his money.
7. I have heard learned counsel for the parties.
8. Issue with regard to payment of interest on delayed payment of retiral dues is no more res-integra. It is settled law of the land that if a person is deprived of amount for the fault of the department/respondents, then he is entitled to interest, which has consistently been followed in a number of cases latest being in the case of **Gaziabad Development Authority** (supra). Also, Rule 87 of Railway Servant (Pension), Rules 1993, itself talks about payment of interest on delayed payment of gratuity.
9. Admittedly, in the present case the applicant retired on 31.10.2016 and at that time, respondents were under obligation to grant him retiral benefits. Since they had to deduct an amount of Rs.1,19,106/- from gratuity, which they have subsequently recovered by disbursing other amount, therefore, plea raised by the respondents that he had been paid over-payment of the amount which they have withheld cannot be accepted because they had to recover only an amount of Rs.3106/- on that account and a sum of Rs.66,000/- on account of his option to continue with Railway Employees Liberalized Health Scheme (RELHS) and Rs.50,000/- towards commercial debt, which as per counsel for the applicant is not settled as yet, as also admitted by

counsel for the respondents. Since the respondents have withheld amount of gratuity and leave encashment for a year, therefore, they are liable to pay interest on that from the date it became due till the same was released.

10. Accordingly, the O.A. is allowed. Impugned order is hereby quashed and set aside. The respondents are directed to pay interest on delayed payment of Gratuity and leave encashment at the rate admissible to employees on GPF from the date it became due till the date of actual payment. No costs.

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

Date: 26.02.2019.

Place: Chandigarh.

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