

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH**

**OA No. 19 of 2016**

**Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)**

Indramani mallick, aged about 67 years, S/o Late Panu Mallick, At/PO - Chanarpada, PS - Nimapara, Dist. - Puri, State - Odisha at present residing at GA 593, Sailashree Vihar, Chandrasekharpur, Bhubaneswar - 751021.

.....Applicant

**VERSUS**

1. Union of India, represented through Secretary to Govt. of India, Ministry of Labour (for PF), Shrama Sakti Bhawan, New Delhi.
2. Employees Provident Fund Organisation represented through Central Provident Fund Commissioner, Employees Provident Fund Organisation, 14 Bhikajikama Place, New Delhi - 110066.
3. Regional Provident Fund Commissioner, Employees Provident Fund Organisation, Regional Office, Bhavishyanidhi Bhawan, Unit IX, Janapath, Bhubaneswar - 751022, Dist. - Khurda, Odisha.

.....Respondents.

For the applicant : Mr.K.C.Kanungo, counsel

For the respondents: Mr.S.S.Mohanty, counsel

Heard & reserved on : 8.2.2019

Order on : 12-02-2019

**O R D E R**

**Per Mr. Gokul Chandra Pati, Member (A)**

The OA has been filed seeking the following reliefs:-

"Your Lordship may graciously be pleased to direct the respondent NO.1 to direct respondents to regularize the suspension period of the applicant from 13.2.2002 to 12.3.2003 since the applicant is acquitted in the criminal case and the departmental proceeding having been dropped for the ends of justice.

AND

Be further pleased to direct the Respondents to pay the admitted consequential admissible service as well as pensionary benefits/dues to applicant such as (1) Regularization of service period from 13.2.2002 to 12.3.2003 and release of differential subsistence amount thereof, (ii) antedating the date of increment to 1<sup>st</sup> March instead of 1<sup>st</sup> May, (iii) release of bonus for 2002-02 and 2002-03, (iv) revision of pension from 1.4.2009 and release of arrears, (v) finalization of gratuity and release of arrears, (vi) release of arrear commutation after revision of pay and (vii) release of arrear leave encashment with interest thereon for the ends of justice.

AND

Be further pleased to direct the respondents to settle and pay the admitted admissible dues with arrears till the actual payment is made and interest thereon for ends of justice.

AND

Be further pleased to issue any other/further order (s) or direction (s) as deemed fit and proper in the circumstances of the case.

2. The applicant was first appointed as LDC under the respondent no. 2 on 9.11.1967 and was eventually promoted to the post of Enforcement Officer/Assistant Accounts Officer and P.R.O. On complaints against the applicant, a FIR was lodged before CBI, which started investigation. A departmental proceeding was also initiated on 7.2.2002. He was suspended on 13.2.2002, but the suspension order was revoked on 12.3.2003.

3. After inquiry, the charges against the applicant were not proved. The Inquiry Officer (in short IO) submitted his report on 21.3.2003. On 21.8.2006, the disciplinary authority dropped the charges. The applicant retired from service on 31.3.2009. He was also acquitted in the criminal case on 13.12.2013. Then on 4.4.2014, the applicant submitted representation for his retirement benefits. He also filed OA No. 412/2015, which was disposed of with direction to the respondents to consider grievance of the applicant as per the rules. On 12.10.2015, the applicant was paid provisional gratuity and leave salary. The applicant is aggrieved since the suspension period from 13.2.2002 to 12.3.2003 has not been regularized as he was acquitted of criminal charges.

4. The counter was filed stating that the retiral benefits have already been released. In Rejoinder, the applicant admitted to have received all the payment except the interest for delayed payment and arrears of gratuity, commutation and leave salary.

5. The respondents have filed a reply to the Rejoinder stating that all arrear dues and differential benefits have been already released on different date as mentioned in the said reply dated 1.12.2916.

6. Learned counsel for the applicant was heard. He submitted that now only claim of the applicant pertains to payment of interest on delayed payment of the retirement benefits in favour of the applicant. He cited the rule 68 of the CCS (Pension) Rules, 1972 and submitted copy of the following judgments in support of his case :

(1) Gorakhpur University -vs- Dr. Sheetal Prasad [(2001) SCC L&S 1032] para 5.

- (2) S.K.Dua -vs- State of Haryana [(2008) 1 SCC L&S 563] para 13 to 17
- (3) Union of India & Ors. -vs- U.Rai Arya [WP(C) No. 7131/2015] decided on 29.7.2015 by Hon'ble High Court of Delhi.
- (4) Order dated 2.8.2018 in OA NO. 681/2016 (Meghanad Nayak -vs- CAG of India), CAT, Cuttack Bench
- (5) Order dated 3.1.2019 in OA No. 491/2012 (Gagan Bihari Sahoo -vs- CAG of India), CAT, Cuttack Bench

7. Learned counsel for the respondents was also heard. He opposed the submissions of the applicant's counsel for payment of interest, by stating that there is no delay on account of the respondents and it was due to pending cases for which the dues were not payable as per the rules. Hence, it was argued that no interest is payable.

8. From the pleadings and submission of the parties, it is clear that the disciplinary proceedings against the applicant were dropped vide order dated 21.8.2006 as stated in para 4.3 of the OA, which has not been denied by the respondents. Vide judgment dated 13.12.2013, the applicant was acquitted from criminal charges, as stated in para 3 of the Reply to the Rejoinder, filed by the respondents. Hence, there was no reason to withhold the retiral benefits of the applicants after 13.12.2013 and the applicant should not been made to run to the Tribunal to get an order to release the retiral benefits, which the respondents were supposed to do as per the extant rules. There is no explanation for the reason for not releasing at least the undisputed dues to the applicant within a reasonable period of two to three months from 13.12.2013. But as stated in the Counter, the gratuity, commutation and encashment of leave dues were released on 1.4.2016 (para 3 of the Counter). The PL Bonus dues and arrear pension were disbursed on 3.3.2016 and 4.3.2016 as stated in para 4 of the Counter. No satisfactory reason has been furnished by the respondents in their pleading for delaying release of the legitimate dues payable to the applicant within three month period from the date of his acquittal on 13.12.2013, i.e. before 13.3.2014 and such delay is attributable to the respondents.

9. For other dues mentioned in the Reply to the Rejoinder, it is explained that these dues could be released after necessary order was made by the competent

authority for the same after which these dues became payable. Hence, the delay in respect of these dues may not be attributed to the respondents.

10. Learned counsel for the applicant in his written note of submission has enclosed a copy of the order dated 28.8.2018 of Cuttack Bench of the Tribunal in the case of Meghanad Nayak vs. Union of India & others (OA No. 681/2016) and the order dated 3.1.2019 of Cuttack Bench in the case of Gagan Bihari Sahoo vs. The Controller of Communication Accounts, Orissa Telecom Circle & others (OA No. 491/2012) in support of his claim for interest. In both the cases, it was directed to release interest for the period of delay in payment of the retiral benefits to the concerned employees.

11. I am of the considered opinion that the present case is squarely covered by the orders of the Tribunal as cited by the applicant's counsel, since there is delay in payment of the applicant's dues after his acquittal from the criminal case as discussed above and particularly in respect of the dues mentioned in the Counter, such delay is attributable to the delay on the part of the respondents.

12. Hence, the respondents are directed to pay interest at the rate of 9% per annum payable from 13.3.2013 till the date of actual payment of the dues mentioned in the Counter filed by the respondents in this OA on 3.5.2016. The payment of above interest to the applicant is to be ensured by the respondents within two months from the date of receipt of a copy of this order. The OA is allowed to the extent as above. There will be no order as to cost.

  
(GOKUL CHANDRA PATI)  
MEMBER (A)

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