

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

OA No. 618 of 2017

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

Bishnu Prasad Swain, aged about 63 years, S/o Late Adikanda Swain, resident of Vill/PO – Sikhara, PS – Naugaon, Dist. – Jagatsinghpur, at present At/PO – Talatelenga Bazar, PS – Purighat, Dist. – Cuttack.

.....Applicant.

VERSUS

1. Employees State Insurance Corporation, Regional Office, Panchdeep Bhawan, Janpath, Bhubaneswar, represented by its Regional Director, ESI Corporation, Panchdeep Bhawan, Janpath, Bhubaneswar-22.
2. Employees State Insurance Corporation, Hdqrs Office, New Delhi, represented by the Director General, Employees State Insurance Corporation, Headquarters Office, Panchdeep Bhawan, CIG Marg, New Delhi – 2.
3. Dy. Director, Finance & Accounts, ESI Corporation, Regional Office, Panchdeep Bhawan, Janpath, Bhubaneswar-22.

.....Respondents.

For the applicant : Applicant in person

For the respondents: Mr.B.Dash, counsel

Heard & reserved on : 24.1.2019

Order on : 31.1.2019

O R D E R

Per Mr.Gokul Chandra Pati, Member (A)

The present OA has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs :

"That this Hon'ble Tribunal on hearing both the parties, be pleased to issue direction to the respondent No.1, 2 and 3 to make payment of interest @ 18% per annum on the amount of gratuity and leave salary to this applicant and that this Hon'ble Tribunal may be pleased to direct the respondent No.2 to fix responsibility on the employees, for such delay, in accordance with Rule 68(4) of the CS (Pension) Rules, 1972."

2. The matter was heard on 24.1.2019 when the applicant was present in person. He submitted that there has been delay in payment of his retirement benefits like gratuity and leave salary for which he has claimed interest @ 12% per annum since the reason is due to the respondents and not due to the applicant. He further submitted that this interest is payable under Rule 68 of CCS (Pension) Rules, 1972 and for the lapse of the authorities, responsibility also requires to be fixed. The applicant also cited the case of Dhruba Charan

panda –vs- State of Orissa & Others [O.J.C. No. 6886 of 1999], in which it is clearly stated that the interest is payable for the delay and it shall be recovered from the person responsible for such delay. The case of the applicant is that the retirement benefits should have been disbursed immediately on receipt of vigilance clearance vide order dated 10.4.23015 (Annexure A/3). The applicant retired on 28.2.2015. There was a disciplinary proceeding which was pending. The final order in the proceeding was passed on 12.2.2015 just before his retirement. The respondent Corporation issued the sanction letter dated 31.5.2016 (Annexure A/7) in favour of the applicant and the amount was credited to the applicant on 6.6.2016 i.e. after a delay of more than 15 months, for which the applicant has claimed interest as per the extant rules.

3. Learned counsel for the respondents was heard. He reiterated the stand taken in the counter, which stated that the penalty of reduction of the applicant's pay by three stages from Rs.18830/- to Rs.16,820/- without cumulative effect, was imposed on the applicant vide order dated 12.2.2015. The delay in payment of retiral benefits of the applicant was on account of clarification as to how the applicant's pay could be fixed at lower level as per Rule 19 of FRSR. It is further stated that the Regional Office of the respondents finally decided that the original pay will be restored on the date of superannuation. Thereafter the amount was calculated and paid to the applicant. In the process the matter got delayed but the provisional pension was sanctioned in favour of the applicant without any delay as per the order at Annexure R/1.

4. In view of the submissions as above, it is noted that the penalty of reduction of pay for three years without cumulative effect was imposed vide order dated 12.2.2015, when the applicant was going to retire on 28.2.2015. Hence the reduction of pay cannot affect the pension, since if the pension is affected then it will be treated as major punishment. Accordingly the issue of the applicant's retiral benefits should have been decided within a reasonable time of two to three months. Instead, the matter was delayed by more than 15 months which is clear from the facts on record. It is seen from the counter that the decision in this regard has been taken vide letter dated 30.7.2015. Hence, it is not clear why the payment was delayed further by about a year from this date.

5. Rule 68 of CCS (Pension) Rules, 1972 reads as under :

68. Interest on delayed payment of gratuity

(1) In all cases where the payment of gratuity has been authorised later than the date when its payment becomes due, including the cases of retirement otherwise than on superannuation, and it is clearly established that the delay in payment was attributable to administrative reasons or lapses, interest shall

be paid at the rate applicable to General Provident Fund amount in accordance with the instructions issued from time to time:

Provided that the delay in payment was not caused on account of failure on the part of the Government servant to comply with the procedure laid down by the Government for processing his pension papers.]

(2) Every case of delayed payment of gratuity shall be considered by the Secretary of the Administrative Ministry or the Department in respect of its employees and the employees of its attached and subordinate offices and where the Secretary of the Ministry or the Department is satisfied that the delay in the payment of gratuity was caused on account of ^[administrative reasons or lapse], the Secretary of the Ministry or the Department shall sanction payment of interest.

(3) The Administrative Ministry or the Department shall issue Presidential sanction for the payment of interest after the Secretary has sanctioned the payment of interest under sub-rule (2).

(4) In all cases where the payment of interest has been sanctioned by the Secretary of the Administrative Ministry or the Department, such Ministry or the Department shall fix the responsibility and take disciplinary action against the Government servant or servants who are found responsible for the delay in the payment of gratuity ^[on account of administrative lapses].

(5)"

Above rules clearly provide for payment of interest on delayed payment. From the facts of the case, it is clear that the delay beyond three months from the date of retirement can be considered to be due to delay on account of the respondents, since a decision was taken in this regard on 30.7.2015. Hence, the respondents are held to be liable for payment of interest on delayed payment of retiral benefits from 1.8.2015 till the date of actual payment to the applicant and for this period the simple interest @ 12% per annum on the unpaid amount shall be paid to the applicant within three months from the date of receipt of the copy of this order.

6. The OA is allowed as above. There will be no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER (J)

(GOKUL CHANDRA PATI)
MEMBER (A)

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