

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.3263/2018

Reserved on: 19.03.2019

Pronounced on: 26.03.2019

Hon'ble Mr. A.K. Bishnoi, Member (A)

Ved Prakash Gupta, Assistant Malaria Inspector,
Aged 61 years,
S/o Late Shri Murari,
R/o 212, Nagin Lake Apartment,
PAschim Vihar, Near Peeragarhi
Delhi-110087.

-Applicant

(By Advocate: Shri J.S. Mann with Shri Vipul Kumar Upadhyay)

Versus

1. The Commissioner (North DMC)
Dr. Shyama Prasad Mukherjee
Civic Centre, Jawahar Lal Nehru Marg,
New Delhi-110002.
2. Deputy Chief Accountant (North DMC)
Civil Line Zone,
16 Rajpur Road, Delhi-54.

-Respondents

(By Advocate: Ms. Anupma Bansal)

ORDER

The present OA has been filed by the applicant seeking the following reliefs:-

- “a) To direct the respondents to release remaining amount of retirement benefits etc. as per details furnished in Annexure A-1.
- b) To direct the respondents to grant interest @ 12% or as deemed fit in respect of all delayed payments of retirement benefits including pension as per details furnished in Annexure A-1.
- c) Any other relief or direction which this Hon'ble Tribunal deems fit and proper in view of the facts and circumstances of the case may be granted/passed in favour of the applicant and against the respondents.”

2. The brief facts of the case are that the applicant retired on 31.08.2017 as Assistant Malaria Inspector. However, his retiral benefits have not been given to him from the due date following which he sent a legal notice to the respondents dated 27.04.2018 to which he has not received any reply. A calculation sheet giving details of payments received, due and the period of delay is enclosed with the OA.

3. In their counter reply the respondents have submitted that the applicant is entitled to a sum of Rs. 44,12,881/-, out of which a sum of Rs, 18,35,089/- has been paid and the demand for remaining amount of Rs. 25,77,792/- is being processed. It is contended that the respondents are making all efforts to pay the dues but due to the tight financial position in the department sometimes there is delay.

4. Heard Shri J.S. Mann, learned counsel for the applicant and Ms. Anupma Bansal, learned counsel for the respondents.

5. The facts of the present case are not in dispute. During the course of arguments, learned counsel for the applicant cited the judgment of the Hon'ble Supreme Court in **D.D. Tiwari (D) Thr. LRs vs. Uttar Haryana Bijli Vitran Nigam Ltd. & Ors.** Civil Appeal No. 7113/2014 [Arising out of SLP (C) No. 25015/2011] decided on 01.08.2014 in which it has been held as under:-

“3.....The High Court has adverted to the judgments of this Court particularly, in the case of State of Kerala & Ors. Vs. M. Padmanabhan Nair[1], wherein this Court reiterated its earlier view holding that the pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement, but, have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be dealt with the penalty of payment of interest at the current market rate till actual payment to the employees. The said legal principle laid down by this Court still holds good in so far as awarding the interest on the delayed payments to the appellant is concerned.....”

4 & 5. xxx xxx xxx

6. For the reasons stated above, we award interest at the rate of 9% on the delayed payment of pension and gratuity amount from the date of entitlement till the date of the actual payment. If this amount is not paid within six weeks from the date of receipt of a copy of this order, the same shall carry interest at the rate of 18% per annum from the date of amount falls due to the deceased employee. With the above directions, this appeal is allowed.”

He has also referred to the judgment of the Hon’ble High Court of Delhi in W.P. (C) No. 1227/2012-**Delhi Police vs. Balwant Singh** decided on 13.03.2012, wherein it has been held as follows:-

“4. The first issue that we have to consider is whether any interest, at all, is payable on the delayed payment of the leave encashment amount. This question need not detain us any longer inasmuch as recently, in the case of [Government of NCT of Delhi v. S.K. Srivastava](#): WP(C) No. 1186/2012 which was decided on 29.02.2012, we had decided that interest would be payable on delayed payment of the leave encashment amount where the delay is on account of no fault on the part of the employee. In that decision, we had observed as under:-

"The learned counsel for the petitioner states that all other dues had been paid to the respondent along with interest at the GPF rate, but since there was no provision in the leave rules for grant of interest, that is why the present petition has been filed. We do not agree with the submission made by the learned counsel for the petitioner that because there are no rules providing for grant of interest, the respondent would not be entitled to the same. There is also no bar to the grant of interest whenever the leave encashment amount is delayed for no fault on the part of the employee. The Government has

retained the money from the year 2000 till 2011, which, in any event, was due to the respondent in the year 2000 itself, particularly in view of the fact that even the conditions specified in Rule 39(3) had not been complied with. Consequently, grant of interest on the said amount at the GPF rate by the Tribunal cannot be faulted. In any event, we may also point out that between 2000 and 2011, because of inflation, the real value of the amount that was due to the respondent had substantially eroded, the payment of interest at the GPF rate would only be a kind of balm applied to the injury suffered by the respondent. It may, in fact, actually turn out that the petitioner would not be paying anything more in real terms than what it was liable to pay in the year 2000."

Thus following the said decision, interest would be payable by the petitioner even on the leave encashment amount and, therefore, the Tribunal's decision in this regard cannot be faulted. In the case of S.K. Srivastava (supra), we had also directed that the rate of interest be granted at the GPF rate. The learned counsel for the respondent has placed before us a decision of the Supreme Court in the case of [Vijay L. Mehrotra v. State of U.P. & Ors](#): JT 2000 (5) SC 171, where the Supreme Court had granted interest on, inter alia, the delayed payment of the leave encashment amount at the rate of 18% per annum. The relevant portion of the said Supreme Court decision is as under:-

"2. The appellant retired from service on 31st August, 1997. From the response, filed by the respondent, it is clear that most of the payments of the retiral benefits to her were made long after she retired on 31st August, 1997. The details of the payments so made are as under:

S.No.	Particulars	Amount Paid	Date
(i)	GPF 90%	Rs 1,80,899.00	27.11.1997
(ii)	GPF 10%	Rs 20,751.00	25.04.1998
(iii)	GIS	Rs 13,379.00	27.02.1998
(iv)	Encashment of leave	Rs 41,358.00	27.09.1998
(v)	Arrears of pay	Rs 15,495.00	27.09.1998
(vi)	Gratuity	Rs 1,09,753.00	05.12.1998
(vii)	Commuted pension	Rs 20,484.00	05.12.1998
(viii)	Detained amount	Rs 45,000.00	05.11.1999

3. In case of an employee retiring after having rendered service, it is expected that all the payment of the retiral benefits should be paid on the date of retirement or soon thereafter if for some unforeseen circumstances the payments could not be made on the date of retirement.

4. In this case, there is absolutely no reason or justification for not making the payments for months together. We, therefore, direct the respondent to pay the appellant within 12 weeks from today simple interest at the rate of 18% per cent with effect from

the date of her retirement i.e. 31st August, 1997 till the date of payment."

5. Since in the aforementioned case, the Supreme Court had directed that interest be paid at as high a rate as 18% per annum on both gratuity as well as the leave encashment amount, we see no reason to interfere with the directions of the Tribunal granting interest at the rate of 9% per annum."

Learned counsel also referred to the judgment of this Tribunal in OA No.2545/2016-**Balbir Singh Rana vs. The Commissioner North DMC & Ors.** decided on 05.02.2018. However, as the provision in law regarding payment of interest on retiral benefits is sufficiently settled by the judgments of the Hon'ble Supreme Court in **D.D. Tiwari (D) Thr. LRs** (supra) and the Hon'ble High Court of Delhi in **Delhi Police vs. Balwant Singh** (supra), there is no need for any further discussion on this judgment.

6. In view of the settled position of law as explained above, the OA is allowed with a direction to the respondents to release all retiral benefits due to the applicant along with interest at the prevailing GPF rate for the period between the date of retirement and the actual payment of dues. While doing so, the respondents shall provide to the applicant the calculation sheet which shall be item-wise. This shall be done within a period of two months from the date of receipt of a certified copy of this order. No costs.

(A.K. BISHNOI)
MEMBER (A)

cc.