

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

OA No. 622 of 2016

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

Khageswar Mohanta, aged about 62 years, S/o Late Nilambar Mohanta, permanent resident of At-Godikansa, PO-Purujoda, Via-Sirigida, Dist-Keonjhar – 758076, PS- Telkoi, retired from the post of Superintendent of Post Offices, Kalahandi Division Bhawanipatna on 31.7.2014 (AN).

.....Applicant

VERSUS

1. Union of India, represented through the Secretary-cum-Director General (Posts), Dak Bhawan, New Delhi-11001.
2. Chief Postmaster General, Odisha Circle, At-Bhubaneswar, PO-Bhubaneswar GPO-751001, Dist-Khurda.
3. Postmaster General, Berhampur Region, Beerhampur-760001.

.....Respondents

For the applicant : Mr.T.Rath, counsel

For the respondents: Mr.B.P.Nayak, counsel

Heard & reserved on : 23.8.2019

Order on : 5.9.2019

O R D E R

Per Mr. Gokul Chandra Pati, Member (A)

The applicant has filed the present OA seeking the following reliefs :

- "(a) That the respondents may be directed to effect payment of interest @ 18% per annum on the delayed payment amount for the period of delay from 1.8.2014 to 31.1.2016 by quashing the order under Annexure A/14.
- (b) The applicant be paid the cost of litigation as he is at unnecessarily dragged into this case by inaction of the respondents.
- (c) That, appropriate responsibility be fixed on the officials responsible for delayed payment of leave encashment of the applicant with appropriate disciplinary action, to prevent recurrence of such unfortunate incident(s) in future.
- (d) And, pass appropriate orders as may be deemed fit and proper in the facts and circumstances of the case and allow the OA with cost as the Respondents have pushed the applicant to litigation with mala fide intention."

2. In this OA, the applicant claims payment of interest for delay in release of his leave encashment benefit by the respondents after his retirement from service. The applicant retired from service on 31.7.2014 and represented on 11.3.2015, 18.6.2015, 8.8.2015 and 23.9.2015 to the respondent no.3 and 2 for release of the leave encashment benefits payable to him as per the rules. He

also represented to the respondent no.1 on 28.12.2015 and 8.2.2016 on this issue. Thereafter, the respondent no.3 sanctioned the amount of Rs. 542764/- towards leave encashment benefit in favour of the applicant. The applicant represented on 29.2.2016 (Annexure-A/13) for sanction of interest for the period from 1.8.2014 to 31.1.2016 in view of delay in release of above amount. This representation has been rejected by the respondent no. 3 vide his order dated 9.3.2016 (Annexure-A/14) which is impugned in this OA.

3. The applicant has cited the DOPT OM dated 27.5.1994 (Annexure-A/15) and 17.8.2007 (Annexure-A/16) in support of his claim of interest. It is stated in the OA that the delay of more than one and half year for releasing the amount in question has resulted in financial loss to him.

4. The respondents have filed Counter stating that there was a disciplinary proceeding against the applicant in which a penalty of recovery of Rs. 1,00,000/- was imposed. The applicant had filed the appeal and during pendency of the appeal he retired from service. Hence, the applicant's service book was sent to the appellate authority, who rejected the appeal vide order dated 8.1.2015. Thereafter, the service book was returned to the respondent no.3 and then it was sent to Director of Accounts for updating the same. The service book was received after being updated on 1.2.2016 after which the respondent no.3 sanctioned the leave encashment benefit. The respondents have cited the OM dated 5.10.1999 (Annexure-R/1 of the Counter) of the Department of Pension and Pensioners' Welfare to aver that no interest is payable to the applicant for delay in release of the leave encashment benefit to him.

5. The applicant has filed Rejoinder stating that the penalty of Rs. one lakh imposed on him was upheld in the appeal and the said orders were impugned by him in the OA No. 103/15 and vide order dated 28.6.2017 of the Tribunal, the charge-sheet and the punishment orders were quashed and the respondents were directed to refund the amount recovered from him. The amount of Rs. one lakh was refunded to him on 18.12.2017. Regarding his service book, it is stated that vide letter dated 3.7.2014 (Annexure-A/21 to the Rejoinder), the applicant's service book was returned to the RO, Berhampur. It is therefore stated that the contention that the service Book was with the appellate authority is not correct.

6. Heard learned counsel for the applicant who submitted that in view of the letter dated 3.7.2014 (Annexure-A/21), the service book of the applicant was with the authorities by the time the applicant retired on 31.7.2014. Learned counsel for the respondents argued that the delay in release in the

leave encashment benefit was due to the system and no delay can be ascribed to the authorities. The OM dated 5.10.1999 (Annexure-R/1) was cited to submit that no interest is payable to the applicant on account of delay in release of leave encashment benefit to the applicant.

7. I have considered the matter with reference to the pleadings on record as well as the submissions by the rival parties. The respondents have averred that due to the fact that the applicant's service book was with the appellate authority, it was not updated and release of the leave encashment dues was delayed and there was no fault on the part of any authority. I am unable to agree with such an averment, since no evidence has been produced on record by the respondents to show that the service book of the applicant was with the appellate authority and it could be updated by 1.2.2016 as stated in para 5 of the Counter. Further, even if it was with the appellate authority, it should have been received after disposal of the appeal on 8.1.2015 and the delay of more than one year from January, 2015 till February, 2016 has not been explained in the Counter. Updating of the service book could have been done immediately on receipt of the original service book from the appellate authority could not have taken more than one year. Moreover, if the service book of the applicant was not available, then how other retirement benefits were disbursed to the applicant, has not been clarified by the respondents in their pleadings. Nothing has also been submitted by the respondents about the letter dated 3.7.2014 (A/21) which clearly shows that the service book of the applicant was available at Berhampur. Hence, I am of the view that there is no satisfactory explanation for delay of release of the leave encashment benefits from January, 2015 to February, 2016.

8. Regarding the averment of the respondents relating to the OM dated 5.10.1999 (R/1) of the Department of Pension and Pensioners' Welfare, it states as under regarding interest on leave encashment benefit:-

"In the matter of delayed payment of leave encashment, the Department of Personnel & Training in their note dated 2.8.99 has clarified that there is no provision under CCS (Leave) Rules for payment of interest or for fixing responsibility. Moreover, encashment of leave is a benefit granted under the leave rules and not a pensionary benefit."

9. The provisions in the OM dated 5.20.1999 regarding the interest payable on delay in payment of the leave encashment benefit as stated above have not been challenged in this OA. But at the same time, there has been delay of more than one year in releasing the above dues to the applicant for which there appears to be delay on the part of some officials responsible for the same. The applicant has submitted that he has sustained financial loss on account of such delay vide the averments in para 5.1 of the OA, which have not been

contradicted in the Counter filed by the respondents. Hence, in the interest of justice, the applicant will be entitled for interest delayed payment and the same cannot be charged from the Government account in view of the OM dated 5.10.1999, but the same can be recovered from the officials who are to be found responsible for delay in releasing the leave encashment benefit to the applicant.

10. Taking into account the fact that there is no satisfactory explanation for delay of one year after allowing time of about one month for processing the claim after disposal of the appeal on 8.1.2015 is available on record, in the interest of justice, it is held that the applicant will be entitled for interest for the delayed payment at the rate of 9% per annum for a period of one year for and in view of the OM dated 5.10.1999, the interest amount so paid to the applicant will be recouped by the respondents through recovery of the amount as per provisions of law from the employees/officers, who would be found to be responsible for delaying the release of the leave encashment benefit to the applicant. It is made clear that the amount of interest as above will be paid to the applicant within three months from the date of receipt of a copy of this order and the interest so paid will be recovered from the responsible employees/officers as stated above preferably within six months from the date of payment of the above interest to the applicant.

11. The OA is allowed to the extent as above. No order as to cost.

(GOKUL CHANDRA PATI)
MEMBER (A)

I.Nath