

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A No. 180/0074/2019

Thursday, this the 29th day of August, 2019.

CORAM:

HON'BLE Mr. ASHISH KALIA, JUDICIAL MEMBER

Narayanan V., 63 years,
S/o. Govindan Nair,
Assistant Commissioner of Central Excise &
Customs (Rtd.), A3, Crescent Iris,
MLA Road, Kovoov, Calicut – 673 017.

[By Advocate Mr. Vishnu S. Chempazhanthiyil]

Versus

1. Union of India represented by the Secretary,
Department of Revenue, Ministry of Finance,
North Block, New Delhi – 110 002.
2. Commissioner of Central Tax &
Central Excise, Calicut Commissionerate,
Central Revenue Building, Mananchira,
Calicut – 673 001.
3. Assistant/Deputy Commissioner of Central Tax,
Kozhikode Urban Division, CR Buildings,
Mananchira, Kozhikode – 673 001. - Respondents

[By Advocate : Mr. Thomas Mathew Nellimootttil, Senior PCGC]

The application having been heard on 29.08.2019, the Tribunal
on the same day delivered the following:

O R D E R

Per: Ashish Kalia, Judicial Member

Applicant filed this present O.A aggrieved by the non-payment
of interest on delayed payment of retiral benefits. Brief facts of the case
are:

The applicant was subjected to a criminal case way back in 03.12.2002.

The applicant retired on superannuation on 31.12.2014, but the criminal case was pending. It was decided by the competent Court by the Special Judge and Enquiry Commissioner, Thrissur, which was submitted by the applicant in January, 2015. Copy of the order passed by the Trial Court is placed on record and para 55 is quoted below:-

*“55. Point No. (ix):- The question regarding quantum of sentence does not arise for consideration as the prosecution failed to prove commission of any offence by the accused. In this case, the Special Judge, Thrissur took cognizance of offence on 23.04.2009. At the time of taking cognizance, second accused was holding the post which he allegedly abused. Therefore, it was necessary to obtain various sanction u/s. 19 of the P.C Act to prosecute second accused as on the date of taking cognizance of offences. On recording a finding that there is no valid sanction, the Court should discharge the accused instead of acquitting them under Section 248 (1) Cr.P.C (**Nanjappa v. State of Karnataka – 2015 KHC 4473**). The accused are entitled to be discharged.*

In the result, the accused are found not guilty of the offences punishable under Sections 7 and 13(2) r/w Section 13(1)(d) of the Prevention of Corruption Act, 1988 and Sections 120 B and 384 IPC and they are discharged of those offences. They are set at liberty. Their bail bonds stand cancelled.”

2. Learned counsel for the applicant submits that the pensionary benefits is not a bounty as decided by the Hon'ble Apex Court in **S.K. Dua v. State of Haryana & Anr 2008 (3) SCC 44** and also referred in Rule 68 of CCS (Pension) Rules, 1972 are produced for delayed payment of Gratuity, etc.

3. Notices were issued and Mr. Thomas Mathew Nellimootttil, learned Senior PCGC appeared on behalf of the respondents and opposed this O.A mainly on the ground that they were awaiting for vigilance clearance from the Vigilance Department.

4. Though, in the reply, the details of payment has been furnished by the respondents, which are made to the applicant after getting vigilance clearance on different dates.

5. After hearing learned counsel on both sides, this Tribunal is of the view that no doubt, pension is not bounty, as it is the money paid by the Government to compensate the labour concerned for years together. This Tribunal is convinced that the administrative lapse should not be the reason for non-grant of interest on delayed payment. In my considered view, the delay can only be attributed to the respondents themselves because the Vigilance Department after receiving the copy within two months the same has not been done in the present case. Thus, I am of this view that the delay in making the payment to the applicant herein is not justifiable. Applicant was denied his legitimate pensionary benefits. Had these payments made in time, he would have got interest on this amount. Thus, I hereby allow this O.A with the following direction:

6. The applicant is entitled for interest @ 7% for commutation, gratuity, leave encashment, arrears of pension and pay arrears. This exercise shall be done within a period of 60 days from the date of receipt of a copy of this Order. There shall be no order as to costs.

(Dated, 29th August, 2019.)

**(ASHISH KALIA)
JUDICIAL MEMBER**

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Applicant's Annexures

- Annexure A-1 - A true copy of representation dt. 15.01.2017 submitted to the Cadre Controlling Commissioner.
- Annexure A-2 - True copy of order C No. II/39/46/2002-Vig.Cx dt. 08.02.2017 of the Principal Commissioner.
- Annexure A-3 - A true copy of representation dt. 08.03.2017 to the Commissioner of Central Excise, Calicut.
- Annexure A-4 - A true copy of representation dt. 07.10.2017 submitted to the Deputy Commissioner of Central Tax & Central Excise, Kozhikode.
- Annexure A-5 - A true copy of Pay Fixation Statement issued vide letter C No. II/25/1/2014 dt. 09.03.2018.
- Annexure A-6 - A true copy of Pension Pay Order 547501800060 dt. 04.06.2018.
- Annexure A-7 - A true copy of order on payment of commutation of pension dt. 04.06.2018.
- Annexure A-MA1 - True copy of the Order dated 06.02.2019 in O.A. No. 180/00074/2019 of the Hon'ble Tribunal.

Annexures of Respondents

- Annexure R-1 - Copy of the Rule 68(1)2 of CCS (Pension) Rules, 1972 regarding admissibility of interest on gratuity allowed after conclusion of judicial/departmental proceedings.
- Annexure R-2 - Copy of the letter C. No. II/25/01/2014 dated 30.05.2019 of the Assistant Commissioner, Central Tax & Central Excise, Urban Division, Kozhikode.
