

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

O.A/20/00942/2017

Date of order : 08.02.2019

Between:

M.RAMACHANDRA RAO,
S/o Late M.Venkateswarlu,
Aged 64 years,
Occupation: Retd. CAO/BSNL,
Vengamamba Nilayam,
17-9-15, Bose Nagar,
Naidupeta, Chirala.

Applicant

A N D

1. The Chairman and Managing Director,
BSNL, Harish Chandra Mathur Marg, Janpath,
New Delhi 110001,
2. The Director (HR),
BSNL, Harish Chandra Mathur Marg,
Janpath, New Delhi 110001,
3. The Chief General Manager,
AP Circle, BSNL Bhavan,
Vijayawada 520004,
4. The Dy. General Manager (Finance),
O/o CGMT, AP Circle, BSNL Bhavan,
Vijayawada 520004,
5. The Sr. General Manager,
Telecom District, BSNL, Eluru.

... Respondents

Counsel for the applicant : Mr.K.N.MANIKYA RAO

Counsel for the respondents : Mr. M.C.JACOB,
SC for BSNL

C O R A M :

THE HON'BLE MR. B.V.SUDHAKAR, MEMBER (A)

ORAL ORDER

2. The applicant challenges the order No.APT-VJ/FC/XIII/1-Legal cases/17-18/42, dated 20.09.2017 issued by the Deputy General Manager (Finance), BSNL, AP Telecom Circle, Vijayawada whereby interest on delayed payment of DCRG has been paid at lower rate of GPF interest.

3. The applicant while working as Chief Accounts Officer in the respondents' organisation, was involved in a criminal case. Consequently, the respondents' organisation issued a charge memo on the very same grounds on which the criminal case was filed. Applicant retired from service on superannuation. Before the disciplinary proceedings could end, applicant approached this Tribunal in O.A.No.63/2013 wherein it was directed by an interim order 13.12.2013 to release DCRG. OA was finally disposed of on 27.01.2014 with a direction to the respondents to conclude the disciplinary proceedings within two months. Respondents accordingly examined and exonerated applicant from all the charges framed against him. The disciplinary proceedings were accordingly closed. Respondents took about one year seven months to release DCRG without paying any interest, despite making representation dated 14.11.2014 to release the interest. There was no response. Hence OA 020/774/2016 was filed before this Tribunal wherein the respondents were directed to dispose of the representation made in regard to interest claimed by the applicant. Accordingly, the respondents released Rs.1,74,583/- towards interest for the delayed period from 01.09.2012 to 31.08.2014. The interest was paid at GPF rate. The applicant is aggrieved that it should be paid with interest @ 18% per annum. Hence, the OA.

4. The applicant contends that the payment of gratuity was delayed deliberately, despite the orders of the Tribunal dated 13.12.2013 and 27.01.2014. The respondents also, while releasing the interest, have not

given clear details. He was not involved in any activity detrimental to the interest of the department. The applicant also cited the decisions of the Hon'ble Supreme Court dated 29.09.1994 in ***R.Kapur Vs. Director of Inspection; 1994 SCC (6) 589***, dated 7.8.2001 in ***Gorakhpur University & Others Vs. Dr. Shitla Prasad Nagendra & Others (Appeal (Civil) 1874 of 1999***, as well as dated 28.7.2011 in ***Writ Petition No.12716 of 2010*** of Hon'ble High Court of Judicature at Madras in ***P.V.Mahadevan Vs. Secretary to Govt. Housing and Urban Development Department and another***, in support of his contentions.

5. The respondents in their reply brief have informed that the applicant, while on leave, was arrested by the police at Chirala on 13.7.2011 as he was involved in a criminal case and detained in custody for more than 48 hours. The competent authority kept him under deemed suspension from 13.7.2011. The departmental proceedings were accordingly initiated. Against the same, applicant moved this Tribunal in OA 63/2013 wherein it was directed to complete the disciplinary proceedings within two months. The disciplinary authority exonerated the applicant by order dated 7.5.2014. Applicant in the meanwhile retired from service on 31.5.2012. The DCRG amount could not be released as there was no vigilance clearance to do so. Subsequently, the DCRG was paid by Demand Draft dated 1.9.2014. The applicant not satisfied, filed OA 774/2016 seeking payment of DCRG interest @ 18% per annum on the delayed payment of DCRG from 1.6.2012 to 31.8.2014. However, the direction of the Tribunal in regard to payment of interest was to dispose of the representation within four weeks. The respondents paid interest on the DCRG for the delayed period at GPF rate of interest from 1.9.2012 i.e., after three months from the date of eligibility, till 31.8.2014 and a sum of Rs.1,74,583/- was therefore paid towards interest. As per Rule 68 of Central Civil Services (Pension) Rules, and the Government of India instructions, payment of interest on the delayed

payment of DCRG at the rate applicable to General Provident Fund deposits was paid. There is no willful delay on the part of the respondents. The applicant also has not produced any rule as to the rate of interest to be made applicable for payment of interest against the delayed release of DCRG at a higher rate than GPF interest. As per rules, interest on DCRG shall be paid at GPF rate of interest.

6. Heard Mr. K.V.Manikya Rao, learned counsel appearing for the applicant and Mr. M.C.Jacob, learned Standing Counsel appearing for the respondents.

7. (a) The facts of the case indicate that the applicant was involved in a criminal case and, therefore, disciplinary proceedings had to be initiated. With the intervention of this Tribunal, the respondents have processed the disciplinary case and finally exonerated the applicant. During the pendency of the disciplinary proceedings, DCRG could not be released. After intervention of this Tribunal in OA 774/2016, the respondents have paid interest at GPF rate. The applicant has cited the Judgments of the Hon'ble Supreme Court and Hon'ble High Court stating that 18% interest shall be applicable for the delayed payment of DCRG.

(b) We have gone through the relevant judgments cited by the learned counsel for the applicant. In both the cases decided by Hon'ble Supreme Court, it was for eviction from quarters and the facts of those cases are not identical to the present case. In the cases cited by the applicant's counsel, the representations made therein were rejected whereas in the present case the representations were duly considered and interest at GPF rate was calculated and released to the applicant. Learned counsel further sought penal interest on the interest amount released for delay even in releasing the interest amount. In this regard, it has to be added that it was not because of the respondents that the

disciplinary case arose. The applicant himself got involved in the criminal case and therefore he cannot find fault with the respondents. As per rules, when there was a delay in release of the DCRG, interest has to be paid after three months from the date it was released. Accordingly, the respondents have rightly calculated and released the interest payment at GPF rate of interest. We find no merit in the submission of the applicant to intervene on his behalf. Hence the OA is accordingly dismissed. There shall be no order as to costs.

(B.V.SUDHAKAR)
MEMBER (A)

vsn