

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

O.A. No.60/535/2018

Date of decision: 26.11.2019

(Reserved on 14.11.2019)

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CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).

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Amrik Singh Bhatti, aged 65 years, son of late S. Dalip Singh, Senior Accountant (Retd.), O/o Director of Accounts (Postal), Kapurthala, R/o H.No.167, Hardyal Nagar, Garha Road, Jalandhar (Pb.). Group C.

...APPLICANT

VERSUS

1. Union of India through the Secretary to the Government of India, Ministry of Telecommunications & Information Technology, Department of Posts, Dak Bhawan, New Delhi.
2. Director General of Posts, Dak Bhawan, New Delhi.
3. Chief Post Master General, Punjab Circle, Chandigarh.
4. Director of Accounts (Postal), Kapurthala.

...RESPONDENTS

PRESENT: Sh. R.K. Sharma, counsel for the applicant.
Sh. K. K. Thakur, counsel for the respondents.

ORDER

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SANJEEV KAUSHIK, MEMBER (J):-

1. Solitary issue in this case is for award of interest on delayed payment of DCRG, Commuted value of pension and amount of GPF.
2. The applicant has approached this Tribunal by way of present O.A. for issuance of a direction to the respondents to pay interest @18% p.a. on delayed payment of DCRG, Commuted value of pension and amount of GPF from the date amount became due i.e. 1.6.2013 till the actual dates of payment on 2.2.2018, 15.3.2018 and 20.6.2013, respectively.

3. Facts, which led to filing of the O.A., broadly are not in dispute.
4. Applicant, who was serving as Senior Accountant in the office of Director Accounts (Postal), Kapurthala was due for retirement on attaining the age of superannuation on 31.5.2013. On 13.5.2013, he was served with a charge sheet under Rule 14 of the CCS (CCA) Rules, 1965. The respondents appointed Inquiry Officer who while submitting his report on 5.3.2015 exonerated applicant from all the charges and has submitted his report to the Disciplinary Authority. The Disciplinary Authority, instead of accepting Inquiry Report, appointed another Inquiry Officer namely Sh. Vijay Kumar to conduct de-novo inquiry on 20.10.2015. However, he (Sh. Vijay Kumar) met with an accident. Thereafter, one Sh. Hari Mohan was appointed as inquiry officer on 01.6.2016. The applicant challenged order dated 20.10.2015, whereby respondents initiated de-novo inquiry by filing O.A. No.60/424/2016. Since no stay was granted in that case, pending O.A. Inquiry Officer was about to conclude departmental proceedings and as such vide order dated 24.11.2016, the O.A. was disposed of by directing the authorities to take charge-sheet to a logical end.
5. The applicant was exonerated from charges but matter was not concluded as Disciplinary Authority, despite filing various applications for extension of time which were also allowed by this Court, did not conclude it, which led to filing of Contempt Petition. Thereafter, the matter was referred to UPSC for their advice in the year 2017. UPSC also opined that no charges were proved and he be exonerated and no penalty for cut in pension is called for. Vide order dated 16.1.2018, Disciplinary Authority accepted inquiry report and passed

order exonerating the applicant from charges. The Contempt Petition was disposed of vide order dated 18.1.2018 as the charges against the applicant were dropped. It is thereafter that applicant again submitted representation in the month of January 2018 for release of retiral benefits and thereafter respondents released the amount on following dates:-

Sr. No.	Nature of Dues	Amount in Rs.	Due Date	Actual date of payment
1.	DCRG	Rs.6,66,468/-	01.6.2013	02.2.2018
2.	Commutation value of pension	Rs.4,41,297/-	01.6.2013	15.3.2018
3.	LTC	Rs.396/-	12/2010	15.2.2018
4.	Arrears of pay and allowances	Rs.4044/-	01.01.2016 to 31.12.2017	
5.	Fixed Medical Allowance	Rs.26980/-	01.6.2013 to 31.12.2017	
6.	G.P.F.	Rs.17,13,813/-	01.6.2013	20.6.2013

6. Though respondents released the amount but no interest was paid so the applicant submitted representation upon that respondents allowed Rs.2,81,190/- as interest but have not paid interest on DCRG, Commutation Value of Pension and GPF, therefore, applicant is before this Court.
7. In support of plea for grant of interest, Sh. R. K. Sharma, appearing on behalf of the applicant vehemently argued that once charges against applicant have been dropped then he becomes due for retiral benefits from the date when it was actually due and thus respondents are liable to pay interest in terms of judgments in the case of State of **Karnataka and others vs. Ganapathi Chaya Naik and others-** 2010 (1) SLR 789, **S.K. Dua vs. State of Haryana Etc.** (CWP No.10025-2005) decided on 18.3.2015 and **Ram Parkash vs. U.O.I. Etc.** (O.A. No.60/422/2016) decided on 22.2.2019 for delay caused in

payment. He further argued that though respondents have allowed some interest but have not calculated from the date it became due and that too has been given at a lower rate than claimed by the applicant in his representations. Thus, he submitted that applicant is entitled to interest @18% on delayed payment of DCRG, Commuted value of pension and gratuity.

8. Respondents have resisted the claim of the applicant where in they have submitted that since disciplinary proceedings were pending against the applicant at the time of his retirement, therefore, they have withheld amount of gratuity and other benefit except pension as he has been paid full pension and it is only after his exoneration from charge that amount was paid with admissible interest.
9. Sh. K.K. Thakur, learned counsel for the respondents vehemently argued that plea of the applicant for interest on commuted value of pension is ill founded as he was paid full pension at the time of retirement and due to pendency of disciplinary proceedings, he is not entitled to award of interest on the said amount and he has been given admissible interest. Therefore, he pleaded that the O.A. being devoid of merits be dismissed.
10. I have given my thoughtful consideration to the matter and have perused pleadings available on record.
11. The award of interest on delayed payment of gratuity has attained attention of Court of law in various cases, where Courts have come heavily upon the employer for withholding of amount without authority and not paying interest on the delayed payment on the amount which they have withheld, as has been held in the case of **Union of India Vs. Justice S.S. Sandhawalia**, (1994) 2 SCC 240,

A.S. Randhawa vs. State of Punjab & others, 1997 (3) SCT 468 and **J.S. Cheema vs. State of Haryana**, 2014 (1) SCT 782. It is not out of context to refer to decision by the Constitution bench in the case of **Secretary, Irrigation Department, Govt. of Orissa & Ors. Vs. G.C. Roay**, AIR 1992 SC 732, wherein it has been held that interest is compensatory in character and can be recovered for withholding the payment of any amount when it is due and payable. It is different from penalty and tantamount to compensation as the person entitled for recovery has been deprived of the right to use the said amount. This view has consistently been followed in the cases of **S.K. Dua Vs. State of Haryana**, 2008 (3) SCC 44, **H.R. Bangar Vs. Union of India & Ors.**(O.A No. 060/00870/2014), decided on 13.03.2015.

12. It cannot be disputed that the case of the applicant is governed by the CCS (Pension) Rules, 1972 being a Central Government retiree. The Government of India's decisions given below Rule 68 of the Rules of 1972 in quite unambiguous terms, provides for making payment of interest on delayed payment of gratuity and other post retiral benefits. The decisions read as under:-

GOVERNMENT OF INDIA'S DECISIONS BELOW RULE 68 OF CCS (PENSION) RULES

(1) Admissibility of interest on gratuity allowed after conclusion of judicial/departmental proceedings.-

1. Under the rules, gratuity becomes due immediately on retirement. In case of a Government servant dying in service, a detailed time-table for finalizing pension and death gratuity has been laid down, vide Rule 77 onwards.

2. Where disciplinary or judicial proceedings against a Government servant are pending on the date of his retirement, no gratuity is paid until the conclusion of the proceedings and the issue of the final orders thereon. The gratuity, if allowed to be drawn by the Competent Authority on the conclusion of the proceedings will be deemed to have fallen due on the date of issue of orders by the Competent Authority.

3. In order to mitigate the hardship to the Government servants who, on the conclusion of the proceedings are fully exonerated, it

has been decided that the interest on delayed payment of retirement gratuity may also be allowed in their cases, in accordance with the aforesaid instructions. In other words, in such cases, the gratuity will be deemed to have fallen due on the date following the date of retirement for the purpose of payment of interest on delayed payment of gratuity. The benefit of these instructions will, however, not be available to such of the Government servants who die during the pendency of judicial/disciplinary proceedings against them and against whom proceedings are consequently dropped.4. These orders (paragraph 3) shall take effect from the 10th January, 1983.

[G.I., Dept. of Per. & A.R., O.M. No. F. 7 (I)-P.U./79, dated the 11th July, 1979 and No. I (4)/Pen. Unit/82, dated the 10th January, 1983.]

(2) Interest for delayed payment of Retirement/Death Gratuity to be at the rate applicable to GPF deposits.-

1. It has been decided that where the payment of DCRG has been delayed beyond three months from the date of retirement, an interest at the rate applicable to GPF deposits will be paid to retired/dependents of deceased Government servants.

2. The Administrative Ministries are requested to ensure that in all cases where interest has to be paid on Death-cum-Retirement Gratuity because of administrative delay, action should be taken against the officer responsible for the delay.

5. (a) The rate of interest mentioned in para. 1 above will be applicable in all cases where the DCRG has not been paid as on date of issue of this OM.

6. All existing instructions relating to interest rate payable by the Government or the employees, as the case may be, will cease to operate with effect from the date of issue of this OM.

[G.I., Dept. of P. & P.W., O.M. No. F.7/I/93-P. & P.W. (F), dated the 25th August, 1994.- Paras. 1, 2, 5(a) and 6.1]

13. Since withheld amount of gratuity which was due on 1.6.2013, has been paid to the applicant on 2.2.2018, thus he is entitled to interest at the rate admissible to an employee on GPF from the date it was due till it was actually paid. The applicant is also allowed interest at same rate on the other delayed payments which were due to him on his retirement.
14. Accordingly the O.A. is allowed in the above terms. No costs.

(SANJEEV KAUSHIK)
MEMBER (J)

Date: 26.11.2019.
Place: Chandigarh.
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