

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: May 20, 2013*

+ **W.P.(C) 3293/2013**

HEMRAJ SINGH Petitioner

Represented by: Mr.Sandeep, Proxy Counsel for
Mr.Sidharth Joshi, Advocate

versus

DDA AND ORS Respondents

Represented by: Mr.Arun Birbal, Advocate for R-1

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE V. KAMESWAR RAO

PRADEEP NANDRAJOG, J. (Oral)

CM No.6251/2013

Allowed.

WP(C) 3293/2013

1. On October 30, 2003 a charge sheet for major penalty proceedings was served upon the petitioner and the inquiry continued beyond the date when petitioner superannuated from service. By way of an interim pension, full pension payable to the petitioner, was released. Gratuity was withheld and so was leave encashment.

2. The petitioner came to be exonerated at the inquiry and thus full gratuity payable was released together with statutory rate of interest i.e. 8% for the delayed period. Leave encashable was also paid.

3. Petitioner raised an issue of belated pension commutation released in sum of ₹3,35,689/- as also belated leave being encashed and payment made.

4. Petitioner sought interest to be paid to him @18% on the gratuity paid. Petitioner sought interest at said rate on the commuted value of the pension paid to him as also leave encashment.

5. Denying any interest on gratuity, vide impugned decision dated February 24, 2012, the Tribunal has held, and in our opinion correctly, that statutory rate at which interest had to be paid on gratuity withheld has been paid notwithstanding the fact that the department was entitled to have retained the gratuity pending inquiry.

6. We note that when gratuity was released interest @8% per annum for the delayed period was paid.

7. Denying interest on the commuted value of the pension, the Tribunal has noted that upon petitioner superannuating from service an interim pension was sanctioned to him which was the full pension which petitioner would have received. The Tribunal has taken the view that if commuted value of the pension was paid when the petitioner superannuated he would have received pension less the commuted value each month and since each month petitioner received full pension, he would not be entitled to any interest when the pension was commuted and the commuted amount paid, a reasoning of the Tribunal which is based on reason and hence correct.

8. Illustratively one can explain the reason of the Tribunal. Say, upon superannuation 'A' were to receive pension in sum of ₹100/- per month and was entitled to 1/3rd thereof being commuted. Say further, after 15 years the commuted pension had to be restored. The commuted value of the pension would be ₹30 x 12 x 15 = ₹5,400/-. If ₹5,400/- were to be

deposited in a bank yielding interest @8% per annum the annual interest would be ₹432/- and monthly interest would be ₹36/-. If pension is commuted, as in the instant case, after a few years, the interest which would have been earned on the commuted value of the pension would be just about offset by the quantum of the full pension received before it was commuted.\

9. As regards late payment of leave encashed we find that the Tribunal has directed interest to be paid @6% per annum for the delayed period, which is more than reasonable.

10. The writ petition is accordingly dismissed in limine but without any order as to costs.

(PRADEEP NANDRAJOG)
JUDGE

(V.KAMESWAR RAO)
JUDGE

MAY 20, 2013
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