Court No. - 7
Case :- WRIT - A No. - 7982 of 2023
Petitioner :- Shive Mohan Prasad Ojha
Respondent :- Union Of India Thru. Secy. Deptt. Telecommunication Ministry Comm. And 2 Others
Counsel for Petitioner :- Raj Mani Dubey
Counsel for Respondent :- A.S.G.I.,Satya Prakash Tiwari

Hon'ble Abdul Moin,J.

1. Heard learned counsel for the petitioner, Sri Anand Dwivedi, learned counsel for the respondent no. 1 and Ms. Nidhi Singh, Advocate, holding brief of Shri Satya Prakash Tiwari, learned counsel appearing for respondent nos. 2 & 3.

2. Contention of learned counsel for the petitioner is that although the petitioner has been paid the leave encashment, the interest on delay has not been paid and thus, he is entitled to interest from the date of retirement i.e. 31.01.2018 till actual payment.

3. Learned counsel for the respondent argues that a circular has been issued by respondent no.2 saying that no interest shall be paid on the delayed payment of gratuity as it is not a statutory payment.

4. In the light of the said, learned counsel for the respondent argues that no interest is payable as demanded by the petitioner.

5. Learned counsel for the petitioner places reliance on the judgment of this Court in the case of **Nand Lal v. Indian Telephone Industries Limited and 2 Ors. (Writ - A No.31490 of 2016) decided on 09.03.2018** wherein a similar issue was considered and decided by this Court and the interest was held to be payable on account of delay.

6. It is informed by learned counsel for the respondent that in a similar case, this Court in Writ Petition No.20927 (SS) of 2021 has called for a counter affidavit. It is further informed that SLP(C) No.004379 of 2019 against a similar order passed by this Court, is pending before the Hon'ble Supreme Court.

7. Considering the fact that the decision has been taken only on the ground that the dues of leave encashment are not statutory dues, as such, no interest is payable, the same is liable to be rejected on the simple analogy that interest is a natural accreditation of capital. Even otherwise, the payment of leave encashment flows out of the decisions taken and thus, cannot be said that it has no flavour of statutory enactment.

8. Thus, following the judgment in the case of **Nand Lal (Supra)**, the writ petition is allowed.

9. Respondents are directed to ensure payment of interest at the rate of 7% per annum on the leave encashment for the period from date of retirement till actual payment.

10. The said interest shall be paid to the petitioner within a period of four months.

Order Date :- 13.10.2023
J.K. Dinkar

Digitally signed by :-
JESHU KUMAR DINKAR
High Court of Judicature at Allahabad,
Lucknow Bench