

Court No. - 5

Case :- WRIT - A No. - 4876 of 2022

Petitioner :- Lallo Singh

Respondent :- U.O.I. Thru. Secy. Ministry Of Communication, Govt. Of India And 3 Others

Counsel for Petitioner :- In Person

Counsel for Respondent :- A.S.G.I.,Anand Dwivedi,Dwijendra Mishra

Hon'ble Abdul Moin,J.

Heard Shri Lallo Singh, the petitioner who appears in person as well as Shri Dwijendra Mishra, learned counsel for the respondents no. 3 and 4.

Under challenge is the order dated 29.12.2020, a copy of which is Annexure No. 1 to the petition, whereby the representation made by the petitioner regarding 6th and 7th Pay Revisions and payment of privilege leave encashment has been disposed of.

By the said order, the petitioner has been informed that the privilege leave dues have been credited in his account on 29.12.2020. So far as the pay revision is concerned, the petitioner has been informed that as there is no budgetary support provided by the Government of India and the company is not in a position to afford the pay revision consequently, no action in this regard can be initiated.

Contention of the petitioner who appears in person is that he retired on attaining the age of superannuation on 31.07.2017 from the office of the respondents no. 3 and 4. His dues of privilege leave encashment has only been made on 29.12.2020 as emerges from a perusal of the order impugned.

The petitioner is aggrieved by the delay in payment of his dues and thus, claims interest on delayed payment of the same and further prays that the benefit of the 6th and 7th Pay Revisions which have been denied be made.

Shri Dwijendra Mishra, learned counsel for the respondents no. 3 and 4 states that on account of the financial crunch with which the respondents no. 3 and 4 were seized at the time of retirement of the petitioner consequently, the privilege leave encashment dues were not paid when the petitioner retired rather have only been credited in the account of the petitioner on 29.12.2020.

Once admittedly the dues which were admissible to the petitioner on his retirement i.e. on 31.07.2017 have been paid belatedly i.e. on

29.12.2020 consequently, keeping in view the judgment of this Court passed in **Writ A No. 2075 of 2023 in re: Ashok Kumar Shukla versus Union of India and others** decided vide judgment and order dated 3rd March, 2023 and was upheld in **Special Appeal (Defective) No. 72 of 2024** vide judgment and order dated 6th February, 2024 as well as by Hon'ble Supreme Court in **S.L.P. No. 7939 of 2024** decided vide judgment and order dated 8th April, 2024, the petitioner would be entitled for payment of interest which in the aforesaid judgment of **Ashok Kumar Shukla (supra)** has been quantified as 7% per annum on the delayed payment of post retiral benefits of P.L. encashment. The said judgment having been rendered in the case of Indian Telephone Industries Ltd. (hereinafter referred to as "ITI Ltd.") itself consequently, this Court does not find any reason to make a departure from the rate of interest as has been awarded by this Court.

Even otherwise, it is a settled proposition of law that where dues are to be paid to a retired employee, lack of financial resources and financial crunch cannot be cited as an example to not pay the dues. As such, this Court is of the view that the petitioner would be entitled for payment of interest at the rate of 7% per annum on the delayed payment of post retiral benefits of P.L. encashment from the date of P.L. encashment amount became due i.e. 01.08.2017 till the date of actual payment i.e. 29.12.2020.

Let aforesaid payment be made within a period of six weeks from the date a certified copy of this order before the competent authority.

So far as the relief of 6th and 7th Pay Revisions is concerned, the respondents have turned down the same on the ground that there is no budgetary support provided by the Government of India. This would also be apparent from a perusal of the wage policies and related matters, a copy of which is annexure 2 to the writ petition per which paragraph 2 (ii) specifically provides that no budgetary support for the wage increase shall be provided by the Government under any circumstances.

Even otherwise, the pay revision is a policy decision and this Court cannot direct the respondent i.e. ITI Ltd. to revise its pay or its pay scale for its employees and consequently, the petitioner would not be entitled for relief in this regard.

Keeping in view the aforesaid discussion, the writ petition is partly allowed to the aforesaid extent.

Further, considering the fact that this is the second writ petition having been filed by the petitioner who appears in person as earlier he had filed Writ Petition No. 3249 of 2020 Inre; Lallo Singh Vs. Union of India and ors which was disposed of vide judgment and order dated 27.10.2020, a copy of which is annexure 5 to the writ petition which

too, was for the purposes of the pay revision and payment of his dues and again he has been constrained to file the instant writ petition as such, it is provided that the respondents would also pay a token cost of Rs. 10,000/- to the petitioner.

At this stage, Sri Mishra, learned counsel for the respondents no. 3 & 4 has vehemently opposed the imposition of cost but the Court is of the view that considering the judgment of the Apex Court in the case of **Subrata Roy Sahara Vs. Union of India** reported in (2014) 8 SCC 470 cost should be imposed on the respondents no. 3 & 4. For the sake of convenience, the relevant paragraphs of **Subrata Roy Sahara (supra)** are reproduced as under:-

*"151. We should not be taken to have suggested, that the cost of litigation should be enhanced. It is not our suggestion, that Court fee or other litigation related costs, should be raised. Access to justice and related costs, should be as free and as low, as possible. What is sought to be redressed is a habituation, to press illegitimate claims. **This practice and pattern is so rampant, that in most cases, disputes which ought to have been settled in no time at all, before the first Court of incidence, are prolonged endlessly, for years and years, and from Court to Court, upto the highest Court.***

*152. **This abuse of the judicial process is not limited to any particular class of litigants. The State and its agencies litigate endlessly upto the highest Court, just because of the lack of responsibility, to take decisions. So much so, that we have started to entertain the impression, that all administrative and executive decision making, are being left to Courts, just for that reason.*** In private litigation as well, the concerned litigant would continue to approach the higher Court, despite the fact that he had lost in every Court hitherto before. The effort is not to discourage a litigant, in whose perception, his cause is fair and legitimate. The effort is only to introduce consequences, if the litigant's perception was incorrect, and if his cause is found to be, not fair and legitimate, he must pay for the same. In the present setting of the adjudicatory process, a litigant, no matter how irresponsible he is, suffers no consequences. Every litigant, therefore likes to take a chance, even when counsel's advice is otherwise.

*153. **Does the concerned litigant realize, that the litigant on the other side has had to defend himself, from Court to Court, and has had to incur expenses towards such defence?*** And there are some litigants who continue to pursue senseless and ill-considered claims, to somehow or the other, defeat the process of law. The present case, is a classic illustration of what we wish to express. Herein the regulating authority has had to suffer litigation from Court to Court, incurring public expense in its defence, against frivolous litigation. Every order was consistently and systematically disobeyed. Every

order passed by the SEBI was assailed before the next higher authority, and then before this Court. Even though High Courts have no jurisdiction, in respect of issues regulated by the SEBI Act, some matters were taken to the High Court of Judicature at Allahabad (before its Lucknow Bench). Every such endeavour resulted in failure, and was also sometimes, accompanied with strictures. Even after the matter had concluded, after the controversy had attained finality, the judicial process is still being abused, for close to two years. A conscious effort on the part of the legislature in this behalf, would serve several purposes. It would, besides everything else, reduce frivolous litigation. **When the litigating party understands, that it would have to compensate the party which succeeds, unnecessary litigation will be substantially reduced. At the end of the day, Court time lost is a direct loss to the nation. It is about time, that the legislature should evolve ways and means to curtail this unmindful activity. We are sure, that an eventual determination, one way or the other, would be in the best interest of this country, as also, its countrymen."**

(Emphasis by the Court)

Accordingly, keeping in view the aforesaid discussion and the law laid down by the Hon'ble Supreme Court in the case of **Subrata Roy Sahara (supra)** and the petitioner who appears in person having been constrained to approach this Court a second time for non payment of his legitimate dues timely, this Court imposes a token cost of Rs. 10,000/- to be paid by the respondents no. 3 & 4 within a period of six weeks from production of certified copy of this order before the respondents to the petitioner by way of a cheque/demand draft.

Order Date :- 6.11.2024

Pachhere/-