

Court No. - 20

Case :- WRIT - A No. - 6552 of 2024

Petitioner :- Vimlesh Kumar Pandey

Respondent :- Union Of India Thru. Secy. Deptt. Of
Telecommunications , New Delhi And 2 Others

Counsel for Petitioner :- Vibhanshu Srivastava

Counsel for Respondent :- A.S.G.I., Satya Prakash Tiwari

Hon'ble Ajay Bhanot, J.

Heard Shri Vibhanshu Srivastava, learned counsel for the petitioner; Shri Anand Dwivedi, learned counsel appearing for respondent no.1/Union of India and Shri Satya Prakash Tiwari, learned counsel appearing for respondent nos. 2 and 3.

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. 31.05.2021 till actual payment on 19.07.2022.

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 leave encashment as it is not a statutory payment.

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

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.

The amount of interest liable to be paid by the respondents was adjudicated by the Supreme Court in **Indian Telephone Industries Limited & Anr. v. Ashok Kumar Shukla and anr. in Special Leave to Appeal (C) No(s). 7939 of 2024** wherein it was held as under:

"However, we cannot forget that the first petitioner is a Government of India undertaking. There was no reason for the Government of India undertaking to deny the benefit of leave encashment for a long period of 4 years and 10 months. A contention is raised by the learned Single Judge was that the interest should not be ordered to be paid, as the payment of leave encashment benefit is not a statutory payment. The said contention deserves to be rejected for the simple reason that the entitlement of the first respondent to receive the benefit of leave encashment on the date of his retirement was established. There is no reason for the Government of India undertaking like the first petitioner to withhold the said amount for a long period of 4 years and 10 months.

The learned senior counsel pointed out that even for payment of salary to the employees, the first petitioner has to look upon the Government of India to release the necessary amount. If that be so, the first petitioner can always request the Government of India to release the necessary amount so that the interest can be paid.

The learned senior counsel relied upon a Memorandum of the year 1999 which makes it clear that no interest will be payable on the amount towards leave encashment. After the Writ Court found that there was no valid justification for not paying the

leave encashment amount for a period of 4 years and 10 months, interest at the rate of 7% p.a. has been granted. We find that the Writ Court was well within its powers to do so.

Hence, there is no merit in the Special Leave Petition and the same is accordingly dismissed."

Learned counsel for the respondents could not dispute the applicability of the judgement of **Nand Lal(supra)** to the facts of this case. This Court finds that the writ petition is liable to be allowed in light of **Nand Lal(supra)** and **Ashok Kumar Shukla(supra)**.

The petitioner is entitled to interest @ 7% per annum which shall be paid within a period of three months.

In the wake of the preceding discussion, the writ petition is allowed.

Order Date :- 20.8.2024

Vandit