

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.25125 of 2015

Date of decision: 02.12.2015

Kamal Kumar Gadi

.....Petitioner(s)

Versus

CAT and others

.....Respondent(s)

**CORAM:- HON'BLE MR.JUSTICE M. JEYAPPAUL
HON'BLE MR.JUSTICE DARSHAN SINGH**

- 1. Whether reporters of local newspapers may be allowed to see judgment? Yes**
- 2. To be referred to reporters or not? Yes**
- 3. Whether the judgment should be reported in the Digest? Yes**

*** * ***

Present: Mr. Kamal Kumar Gadi, petitioner-in-person.

DARSHAN SINGH, J.

1. The present civil writ petition under Articles 226/227 of the Constitution of India has been filed for issuance of writ in the nature of certiorari setting aside the order dated 6.8.2015 (Annexure P-4) passed by the learned Central Administrative Tribunal, Chandigarh Bench, Chandigarh (in short 'the Tribunal) and directing the respondents No.2 to 4 to pay interest on all the delayed payments to the petitioner as per the provisions of the interest Act.

2. That petitioner joined services in MES in March, 1967 as

Surveyor Assistant (re-designated as JE QS&C) on 9.8.1999 when the ACP Scheme was introduced. The petitioner was entitled to two financial upgradations on 9.8.1999 itself as he had already completed 24 years of service in 1991. That some monetary dues/retiral benefits like arrears of pay and allowances on increase in the pay on account of the ACP, revision of pension and leave encashment were not paid to him at the time of his retirement on 30.9.2007. He was also not paid the revision of pay from 1st January, 2006 on account of the recommendations of 6th Pay Commission and consequential revision of pension and arrears etc.

3. The petitioner filed OA No.70/HR/2013 which was decided on 5.3.2013 giving necessary directions to the respondents to disburse the retiral benefits which was released to him in installments in the year 2013-14. The petitioner claimed the interest on the delayed payments. The learned Tribunal directed the respondents to redress this question of interest. The respondents vide impugned order dated 5th September, 2014, declined the claim of the petitioner for grant of payment of interest on the delayed payments on the ground that the interest was not claimed in OA No.70/HR/2013. The petitioner filed OA No.060/01064/2014 seeking directions to the respondents to pay interest to him quarterly compounded @ 13 ½ % per annum on all the delayed payments from the date when these amounts had become due till the date of final realization. The learned Tribunal vide impugned order dated 6.8.2015 held the petitioner entitled to interest only @ 6% per annum on delayed payment of retiral benefits i.e. the pension and gratuity

but the order was silent with respect to interest on delayed payment of arrears of pay and allowances and leave encashment. Thus, the order passed by the learned Tribunal suffers from patent error of law and is liable to be set aside. Hence, this petition.

4. The OA filed by the petitioner was contested by the respondents before the learned Tribunal on the grounds, inter alia, that all the retiral benefits were duly paid to the petitioner on time. E-in-C's Branch vide letter dated 15.9.2011 reviewed the policy for grant of second financial upgradation of JE (QS&C)/AE/(QS&C)/AEE (QS&C) in the Department. The petitioner was duly approved for grant of second financial upgradation under ACP Schem. All the consequential benefits i.e. payment of arrears on grant of second ACP, re-fixation of pay on account of 6th Central Pay Commission and arrears of increased pension on account of re-fixation of pay, were paid to the petitioner during March, 2013. The concrete efforts were made by the Department for early release of the payment of the petitioner but due to lengthy procedure it took sometime which was beyond to the control of the Department. It was further pleaded that there is no provision for grant of interest on the delayed payments. So, the same was rightly denied to the petitioner.

5. We have heard petitioner-Kamal Kumar Gadi in-person and have carefully examined the paper book.

6. The petitioner contended that the learned Tribunal has awarded the interest @ 6% per annum only on the retiral benefits i.e. the pension and gratuity. The learned Tribunal has not awarded the interest on the delayed payment of leave encashment and

arrears on account of the grant of the financial upgradation under the ACP Scheme and re-fixation of pay on account of recommendations of the 6th Pay Commission. He further contended that the interest awarded by the learned Tribunal is also on lower side. He was entitled to interest at least at the rate payable on deposit of the General Provident Fund. This practice has also been adopted by the learned Tribunal in some other cases. Thus, he pleaded that the order passed by the learned Tribunal suffers from error of law and is liable to be set aside/modified.

7. We have duly considered the aforesaid contentions.

8. In the OA filed by the petitioner before the learned Tribunal, he has pleaded that some of the monetary dues/retiral benefits payable to him on or before his retirement like arrears of ACP and the leave encashment were not paid by the respondents at the time of retirement. His pay was also not revised w.e.f. 1.1.2006 on account of the recommendations of 6th Pay Commission and consequent revision of pension. He was also not paid the arrears. In consequence of the directions given by the learned Tribunal in OA No.70/HR/2013, the monetary dues/retiral benefits were released to the petitioner. From the written statement filed by the respondents before the Tribunal in the OA, it comes out that all the consequential benefits i.e. the payment of arrears on grant of second ACP, refixation of pay on account of 6th Pay Commission and arrears of increased pension on account of refixation of pay, were paid to the petitioner during the month of March, 2013.

9. The petitioner has raised the issue of interest on delayed

payments. The learned Tribunal granted him the liberty to move the representation to the respondents. His representation has been rejected by respondent No.3 vide letter dated 5.9.2014. His claim of interest has been declined on the ground that the interest was not initially claimed in OA No.70/HR/2013.

10. This fact is not disputed that the petitioner has already received all the retiral benefits and the monetary dues claimed by him. Now the dispute is only with respect to the payment of interest on the delayed payments. The learned Tribunal in para No.7 of the impugned order has categorically mentioned that the respondents have given the details in the letter dated 12.3.2014 with respect to the release of the leave encashment, payment of arrears of grant of second ACP, refixation of pay on account of 6th Central Pay Commission, arrears of gratuity, arrears of increased pension on account of refixation of pay and arrears of pension after refixation of pay as per recommendations of 6th Central Pay Commission which were made to the petitioner during the period from 6.3.2013 to 18.12.2013. This factual position has not been disputed by the petitioner before us.

11. It is further evident from the impugned order that some penalty order was passed against the petitioner on 5.4.2010 which was subsequently withdrawn vide order dated 1.8.2014. That may be the reason for some delay in releasing the monetary dues and retiral benefits of the petitioner. The petitioner has not specifically mentioned in the OA or even in the present petition on which date the amount of his leave encashment was disbursed to him. The learned

Tribunal has already awarded the interest to the petitioner on the delayed payment of the retiral benefits i.e. the pension and gratuity @ 6% per annum which had become due on 30.9.2007. The learned Tribunal has even gone a step further and has awarded the interest @ 6% per annum to the petitioner on the arrears of the additional retiral benefits payable to the petitioner beyond 1.1.2012. So, the grievance of the petitioner had already been taken care of by the learned Tribunal.

12. The petitioner has not been able to show any statutory rule under which he was entitled to the interest at the rate the interest is payable on the deposit of the General Provident Fund. If in some case in view of the factual matrix of that case, the Tribunal has awarded the interest at that rate that does not become a statutory rule and make the petitioner entitled to the interest at the same rate as each case is to be decided on its own facts.

13. Thus, keeping in view our aforesaid discussion, we do not find any illegality or infirmity in the impugned order passed by the learned Tribunal. Consequently, the present petition is without any merit and the same is hereby dismissed.

(M. JEYAPPAUL)
JUDGE

(DARSHAN SINGH)
JUDGE

December 02, 2015
ps