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

\+ **W.P.(C) 7719/2015**

Date of judgment: 14.08.2015

UNION OF INDIA AND ANR. ..... Petitioners

Through : Mr. J.K Singh, Advocate.

Versus

GIR RAJ. ..... Respondent

Through : None.

CORAM:
HON'BLE MR. JUSTICE G.S.SISTANI
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J.

CM APPL. 15137/2015

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. The present writ petition has been filed by the petitioners under Articles 226 and 227 of the Constitution of India seeking to set aside the order dated 28.01.2015 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi, whereby, the learned Tribunal allowed the O.A. bearing No. 3012 of 2013 filed by the respondent with regard to payment of 9% interest each on difference of arrears of pensionary benefits and on arrears of medical allowance, to the respondent.
4. The controversy thus involved in this petition revolves on a narrow compass. Before we delineate the issue involved and answer the same, we would like to take stock of the factual matrix.

5. The Respondent was appointed in the Railways as a Khalasi on 24.12.1970. He had completed more than 30 years of qualifying service and his request for granting 3rd Modified Assured Career Progression (MACP) Scheme of Rs.5200-20200 + 2400/- (Grade Pay) was considered vide ADEN/TKD letter No. E-1/TKD/2011 dated 13.10.2011 and thereafter three financial up-gradations at Grade Pay Rs.1,900/-, Rs.2,000 and Rs.2,400/- in Pay Band Rs.5,200-20,200, were granted to him under MACP Scheme and were paid to him on the last pay drawn of Rs.9,800/-. The respondent after rendering about 38 years of service, retired on superannuation at the age of 60 years on 31.10.2008. According to respondent, he was also entitled to a sum of Rs. 300/- p.m. as Fixed Medical Allowance w.e.f. 01.11.2008 as per Railway Board's order No. PC-V/2011/A/Med/1 dated 07.06.2011, which the petitioners failed to pay. Accordingly, the respondent made a representation to the petitioners on 06.12.2012 to the aforesaid effect, but petitioners neither responded nor released the difference of arrears of pay, difference in pension and Fixed Medical Allowance @ Rs.300/- p.m. w.e.f. 01.11.2008.

6. The respondent preferred an O.A. which was decided in his favour with following directions to the petitioners :-

> *"xxxxxI direct the respondents to immediately release the difference of arrears of pensionary benefits to the applicant with 9% interest. The respondents shall also give a detailed due and drawn statement to the applicant explaining the difference of pension prepared by them. Further they shall also release him the Fixed Medical Allowance of Rs.300/- p.m. as admitted by them with upto date arrears with 9% interest w.e.f. 01.01.2013 as admittedly he applied for the same on 06.12.2012 and thereafter his case was sent to accounts officer. Further, the Respondents shall also issue the Railway pass to the Applicant as admitted by them. The respondents shall also file an affidavit of compliance of the aforesaid directions in this Tribunal within a period of one month*

> *from the date of receipt of a copy of this order. There shall be no order as to costs."*

7. Learned Counsel for the petitioners stated that the order passed by the Central Administrative Tribunal is unjust, illegal, arbitrary and against the principles of natural justice. Learned counsel for the petitioner contended that the learned Tribunal has wrongly directed payment of interest as there is no provision for payment of interest. It is further contended that in the present case, the interest is not payable on delayed payment and the O.M. dated 05.10.1999 shall apply mutatis mutandis on Railways also and reliance has been placed on para 2 of the O.M. dated 05.10.1999 which bars the payment of interest, which reads as under**:-**

> *"2. As per CCS (Pension) Rules, 1972, no interest is payable on delayed payment of pension/ commuted value of pension...."*

and thus, the respondent is not entitled for any interest on delayed payment.

8. Learned Counsel for the petitioner further contended that the delay in payment of revised pension is not malafide as the department has acted as per the Rules and it is in conformity with the same and the revised pensionary benefits have already been released in the favour of respondent as per 6th Central Pay Commission in the month of May, 2011.

9. It is further contended that the benefits of MACP towards Pay Arrear was extended to respondent on 11.10.2011 and after due procedure the same were released to him on 16.08.2012. As per MACP, his pensionary benefits were revised as advised earlier vide the office letter dated 25.06.2015 and thereafter, the respondent has been paid all the benefits as per Rules.

10. We have heard learned counsel for the petitioners and considered his submissions. We have also carefully examined the impugned order dated 28.01.2015 passed by the learned Tribunal.

11. It is the case of petitioners where they have paid all the pensionary dues of the respondent as directed by learned Tribunal but according to them, no interest to be paid on delayed payment of pension in terms of O.M. dated 05.10.1999. Having considered the said O.M., this Court is of the view that respondent is entitled to interest on delayed payment as the O.M. on which the petitioner is relying itself states that claims of petitioners to be settled by strictly following the procedure laid down in Rules 56 to 76 of CCS (Pension) Rules, 1972 under para 2 (a) and Rule 68 specifically talks about the interest on delayed payment, and thus, the Rule 68 of CCS (Pension) Rules, 1972 would come into play which prescribes grant of interest on belated payment of gratuity. This Rule reads as under:-

> "*68. Interest on delayed payment of gratuity*
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> *i. If the payment of gratuity has been authorized later than the date when its payment becomes due, and it is clearly established that the delay in payment was attributable to administrative lapses, interest shall be paid at such rate as may be prescribed and in accordance with the instructions issued from time to time.*
>
> *Provided that the delay in payment was not caused on account of failure on the part of the Government servant to comply with the procedure laid down by the Government for processing his pension papers"*

12. Taking into consideration the aforesaid Rule, we have observed that this Rule envisages that if the payment of pensionary benefits has been authorized later then the date when payment becomes due, interest would be paid provided that such delay shall not be due to the government servant who retired from service and entitled to such benefits. Hence, we

therefore hold that the learned Tribunal has rightly awarded 9% interest on the delayed payment of pension and other dues as per Rules.

13. We find no infirmity in the judgment of the learned Tribunal. Resultantly, the present Writ Petition is dismissed. The petitioners are directed to release the arrears of pension alongwith interest to the respondent within one month from the date of this order.

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14. Since the present writ petition has been dismissed, the application also stands dismissed.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

AUGUST 14, 2015
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