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

\+ **W.P.(C) 11269/2015**

% *Date of Judgment : 04.12.2015*

JAI BHAGWAN NANDAL ..... Petitioner

Through : Mr. I. S. Dahiya, Advocate.

versus

SOUTH DELHI MUNICIPAL CORPORATION & ANR ..... Respondent

Through : Mr. Roshan Lal Goel, Ms. Anju Gupta and Mr. Atul Bansal, Advocates.

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

**G. S. SISTANI, J. (ORAL)**

**CM APPL. 29453-54/2015**

1. Exemption allowed subject to just exceptions.

2. Applications stand disposed of.

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3. Challenge in this writ petition is to the order dated 23.09.2014 passed by the Central Administrative Tribunal which was subsequently modified on 08.02.2014. Learned counsel for the petitioner submits that the petitioner is only aggrieved by the direction contained in the order by which only 6% interest has been granted.

4. Counsel for the petitioner submits that the petitioner had superannuated in October, 2012. Thereafter he has been running from pillar to post for his retiral benefits including leave encashment, pension, pension commutation, GPF, ACP / MACP and DCRG. He submits that since he was being deprived of the retiral benefits, he was forced to approach the Central Administrative Tribunal and

despite the Tribunal having allowed the OA, the respondent did not release the payments. The petitioner thereafter filed a Contempt Petition and it is only thereafter that the payments were released. The petitioner claims interest @ at least 9% p.a. which is the rate of interest provided by the banks to senior citizens. Counsel for the petitioner has relied upon a decision rendered by a Division Bench of this court in the case of ***V. K. Sareen Vs. Union of India & Ors. : 187 (2012) Delhi Law Times 483.***

5. Notice. Counsel for respondent accepts notice.

6. With the consent of the parties, we take this writ petition for final hearing and disposal since a very short point is involved in this writ petition with regard to payment of interest on delayed release of retiral benefits.

7. Counsel for the respondent however submits that there is no justification for increase of interest.

8. This submission of the learned counsel for the respondent is without any force.

9. In the case of ***V. K. Sareen Supra***, a Division Bench of this court while relying on various judgments granted 10% interest while holding that the petitioner was not responsible for the delay.

10. Apex Court in the case of ***D. D. Tewari Vs. Uttar Haryana Bijli Vitran Nigam Ltd. & Ors. : 2014 (9) SCALE 78,*** in para 4 held that :

> *"4. It is an undisputed fact that the appellant retired from service on attaining the age of superannuation on 31.10.2006 and the order of the learned single Judge after adverting to the relevant facts and the legal position has given a direction to the employer-respondent to pay the erroneously withheld pensionary benefits and the gratuity amount to the legal*

*representatives of the deceased employee without awarding interest for which the appellant is legally entitled, therefore, this Court has to exercise its appellate jurisdiction as there is a miscarriage of justice in denying the interest to be paid or payable by the employer from the date of the entitlement of the deceased employee till the date of payment as per the aforesaid legal principle laid down by this Court in the judgment referred to supra. We have to award interest at the rate of 9% per annum both on the amount of pension due and the gratuity amount which are to be paid by the respondent."*

11. The petitioner in this case retired in October, 2012 and thereafter since the retiral benefits were not being released, he was forced to approach the Tribunal. Despite the Tribunal having allowed the OA, the respondent did not release the payments which led to the filing of a Contempt Petition and only thereafter the retiral benefits were released. It has been repeatedly held by the Apex Court that grant of pension is not a bounty.

12. We feel that the Tribunal has failed to take note that the petitioner is a senior citizen and he would be entitled to the interest as provided by the nationalized banks.

13. Resultantly, the writ petition is allowed and the respondents are directed to pay the interest for delayed of payment of terminal benefits @ 9% p.a. to the petitioner instead of interest @ 6% p.a. granted by the Tribunal. No costs.

**G.S.SISTANI, J**

**SANGITA DHINGRA SEHGAL, J**

**DECEMBER 04, 2015/**sc