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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **WRIT PETITION (CIVIL) No. 11275/2016**

Date of decision: 30th November, 2016

U. RAI ARYA Petitioner

Through Ms. S. Janani, Advocate.

versus

UNION OF INDIA AND ANR. Respondents

Through Nemo.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

SANJIV KHANNA, J. (ORAL):

U. Rai Arya in this writ petition impugns orders dated 18th February, 2015 and 11th July, 2016, which have been passed by the Principal Bench of the Central Administrative Tribunal (Tribunal, for short).

2. Order dated 11th July, 2016 disposes of the Contempt Petition No. 531/2015 filed by the petitioner for non-compliance of the order dated 18th February, 2015.

3. The primary grievance of the petitioner is not to the order dated 11th July, 2016, but to the order dated 18th February, 2015, which had disposed of OA No. 908/2014 in the following terms:-

“8. In the above facts and circumstances of the case, I allow this O.A. and direct the respondents to give the applicant interest @ 9% on all dues which would have been otherwise admissible to him had he been allowed to retire on superannuation on 30.06.1994 itself. They shall also pay the difference of salary and

allowances for the suspension period with 9% interest, if not paid already. The respondents shall calculate the interest payable on each of the items separately and furnish the calculation sheets to the Applicant for his verification. The aforesaid directions shall be complied with, within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs.”

4. The petitioner, who was working as Engineering Supervisor, Telephones in Delhi Telephones was chargesheeted and prosecuted by the Central Bureau of Investigation in a criminal case. He was convicted vide judgment dated 23rd June, 1994 by the Sessions Court. However, he succeeded and was acquitted by the High Court of Rajasthan vide judgment dated 7th December, 2006.

5. Consequent to the conviction in the criminal prosecution, the petitioner was removed from service with effect from 23rd June, 1994. After the conviction was set aside, the petitioner was reinstated and consequent orders were passed on 23rd July, 2007.

6. The petitioner in normal course would have superannuated on 30th June, 1994. The claim of the petitioner, therefore, was primarily for payment of retirement and other benefits and compensation in form of interest for the delay.

7. The petitioner was paid retirement benefits, including pension, leave encashment, gratuity, etc. vide letter dated 1st February, 2008.

8. In 2011, the petitioner raised grievance regarding non-payment of interest stating that interest should be paid for the period between 30th June,

1994 till 1st February, 2008. OA No. 4088/2010 for the said relief was disposed of by the Tribunal vide order dated 25th January, 2011 directing the respondents to treat the same as representation and decide the claim for interest.

9. By order dated 20th September, 2011, the respondents had accepted the petitioner's prayer and had granted and paid simple interest @ 9% on gratuity. However, the same order dated 7th November, 2012 had declined/rejected the request for payment of interest on commuted value of pension, leave encashment, etc. as the same was not admissible under the Rules.

10. The petitioner had then filed OA No. 908/2014 praying for interest @ 18% per month on retirement benefits compounded annually, including pension, gratuity, etc. from 30th June, 1994 till the date of payment. Prayer was also made for arrears of pay for the suspension period amounting to Rs.44,368/- alongwith interest @ 18% per annum compounded annually.

11. The aforesaid OA has been disposed of vide impugned order dated 18th February, 2015, the operative portion of which we have referred to above. The order directs that the petitioner would be entitled to interest @ 9% on all dues, which would have been otherwise admissible to him; had he been allowed to retire on superannuation on 30th June, 1994 itself. The petitioner will also be paid the difference of salary and allowances for the suspension period with 9% interest, if not already paid.

12. We find that the order passed by the Tribunal is just and fair. It balances equity and respective cases of the either side in the facts and circumstances of the present case.

13. Learned counsel for the petitioner submits that in the case of ***K.L. Kohli versus Shri Prakash***, Writ Petition (C) No. 5303/2008, decided on 11th November, 2008, a Division Bench of this Court had directed payment of interest @ 12% compounded annually from the date the amount became due till the payment was released.

14. We have considered the said contention, but find that the said direction was given keeping in view the peculiar facts of the said case and with reference to circular issued by the Ministry of Railways, which was held to be applicable in the said case. Noticeably, the petitioner therein was 92 years of age and had been placed under suspension on 23rd April, 1976 on account of certain complaints. He had faced criminal prosecution and was finally acquitted on 15th February, 1995. Nevertheless, the respondents had failed to pay the arrears of salary, gratuity and even pension amount. We do not think that the aforesaid judgment lays down the ratio that can be applied universally, or to the facts of the case. Direction to pay interest @ 12% compounded annually is not the general rule or the ratio. A cursory glance at the case law on the subject would reveal that the Supreme Court has in some cases allowed non-compounded interest @ 12% per annum (see ***O.P. Gupta versus Union of India***, (1987) 4 SCC 328 and ***R.R.***

Bhanot versus Union of India, (1994) 2 SCC 406). In the later case, it was observed that the direction to pay interest @ 12% per annum on delayed payment was a matter of practice.

15. Recently, in ***D.D. Tewari versus Uttar Haryana Bijli Vitran Nigam Ltd.***, (2014) 8 SCC 894, interest was awarded @ 9% if paid within 6 weeks, and 18% per annum if paid thereafter. Culpability and reasons for the delay in disbursement are relevant aspects in addition to the factor that delayed payment may itself in some cases justify payment of interest.

16. In ***Y.K. Singla versus Punjab National Bank***, (2013) 3 SCC 472 interest on delayed payment of gratuity was directed @ 8% per annum in addition to costs of Rs.50,000/- being awarded in view of the Gratuity Act, 1972 notwithstanding the Bank's Regulations.

17. Learned counsel for the petitioner has not pressed or raised any other point. However, we would clarify that in case the petitioner has any grievance with regard to short payment or wrong payment, the petitioner would be at liberty to move an application under Section 27 of the Administrative Tribunals Act, 1995 for redressal of the said grievance.

18. With the aforesaid observation, the writ petition is dismissed.

SANJIV KHANNA, J.

CHANDER SHEKHAR, J.

**NOVEMBER 30, 2016
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