

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 1872 of 2012**

- R.N. Konher, Retired Superintending Engineer, Public Health and Engineering Department, S/o late Shri Narayan Rao Konher, Aged about 65 years, R/o B-705, Street 22, Smriti Nagar, Bhilai, District Durg (C.G.)

---- Petitioner**Versus**

- State Of Chhattisgarh Through Secretary, Public Health Engineering Department, Mantralaya, D.K.S. Bhawan, Raipur (C.G.)

---- Respondent

For Petitioner
For State

Mr. Rahul Tamaskar, Advocate
Mr. B.Gopa Kumar, Dy. Advocate General

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****26.04.2017**

1. The limited relief sought for through the present Writ Petition is for interest on delayed arrears of payment towards pension payable to the Petitioner.
2. Admittedly, the Petitioner in the instant case stood retired from the office of the Respondent as Superintending Engineer on 31.07.2006. The retiral dues were paid to the Petitioner. The enforcement of the Sixth Pay Commission with effect from 01.04.2006 was taken on 01.04.2009. However, the order for payment of arrears of pensionary benefits issued in favour of the Petitioner was on 20.09.2011. Thus, the Petitioner was denied arrears of pension from the date it fell due on 01.01.2006 till the date the order for release of pensionary benefits was passed on 20.09.2011 i.e. for little less than 5 years. The only

justification which the State Counsel has given in its reply is that since the benefit of Sixth Pay Commission has been made with effect from 01.04.2006 and interest on the same has not been paid to any of the employees of the State Government, therefore the Petitioner is also not entitled for payment of interest on the said amount.

3. Further what is pertinent to be noted is the fact that the decision of the Sixth Pay Commission was taken on 01.04.2009 but the actual payment made to the Petitioner was only made in the month of April, 2011. No justification has been given by the Respondent State as what made them to wait for another two years. Thus, this Court is inclined to draw an inference against the State Government for non releasing of the arrears on pensionary benefits immediately, to be termed as illegal retention of money. Since, the arrears was illegally retained by the Respondent State the entire amount which has been released belatedly should definitely accrue interest.
4. This view of this Court also stands fortified by a series of decisions of the Supreme Court so far as the interest on delayed payment is concerned.
5. It would be trite to refer to the decision of Hon'ble Supreme Court rendered in the case of **D.D. Tewari v. Uttar Haryana Bijli Vitran Nigam Limited & Others [2014 (8) SCC 894]**, wherein, relying upon the decision in the case of **State of Kerala v. M. Padmanabhan Nair [1985 (1) SCC 429]**, it has been held that the pension, gratuity and retiral dues payable to an employee are not a bounty to be distributed by the Government to its employees on their retirement but are valuable rights and property in its hands and any culpable delay in settlement or disbursement thereof must be visited with the penalty of payment of interest. The Supreme Court has very categorically held that denial of

interest amounts to miscarriage of justice.

6. Similar view has also been taken by the coordinate Bench of this Court in the case of **Punarad Prasad Bhagal v. State of Chhattisgarh & Others**, decided on 18.03.2013 in **Writ Petition (S) No. 5231 of 2011**, wherein the Court has allowed the said petition under similar circumstances.
7. The view of this Court stands further fortified from the decision of the Hon'ble Supreme Court in the case of **State of Uttar Pradesh and Others v. Dhirendra Pal Singh [2017 (1) SCC 49]**.
8. Considering the authoritative decisions of Hon'ble Supreme Court in the cases of **D.D. Tewari and Dhirendra Pal Singh (Supra)**, this Court is of the opinion that it is a fit case where the Petitioner is entitled for interest on the delayed payment.
9. In view of the above, this Court has no hesitation in reaching to the conclusion that the amount, which was paid to the Petitioner with a delay of little less than 5 years, would carry interest to be calculated at the rate of 9% per annum from the date it fell due to the Petitioner i.e. 01.04.2006 to the date of actual payment i.e. 20.09.2011.
10. It is directed that such exercise shall be done and payments made within a period of 3 months from the date of receipt of certified copy of this order.
11. With the aforesaid observation the present Writ Petition stands allowed and disposed off.

Sd/-

(P. Sam Koshy)
JUDGE