

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 1318 of 2017**

- Badri Prasad Mishra S/o Shri Kaushal Prasad, Aged About 66 Years Retired Forester, R/o Villatge Latiyar, Post Hardua, Via Semariya, Distt Rewa (Madhya Pradesh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Secretary, Department Of Forest Mantralaya, Mahanadi Bhawan, Naya Raipur, (Chhattisgarh)
2. Divisional Forest Officer, Forest Division Manendragarh, Distt Koriya, (Chhattisgarh)
3. Joint Director, Treasury, Account And Pension, Ambikapur Division, Surguja (Chhattisgarh)
4. Accountant General, Office Of The Accountant General, Raipur, (Chhattisgarh)

---- Respondents

For Petitioner

Mr. Vinay Pandey, Advocate

For State

Mr. B. Gopa Kumar, Dy. Advocate General

For Respondent No.4

Mr. A. Shukla, Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****20.03.2017**

1. The present Writ Petition has been filed by the Petitioner seeking for a direction to the Respondents to pay interest over the delay caused in releasing the retiral dues and pensionary benefits to the Petitioner.
2. The brief facts of the case is that the Petitioner was initially appointed as Forest Guard on 03.02.1974 and served till 30.11.2010. The date on which he superannuated i.e. 30.11.2010 he was holding the post Forester. While he was in service he was served with charge-sheets on

18.06.2010 and 10.11.2010. Departmental enquiries were also initiated against him. During the pendency of the departmental enquiries Petitioner got retired from the service with effect from 30.11.2010. After his retirement he was not paid the retiral dues and pensionary benefits. Later, on 04.12.2012 order of recovery for amount of Rs. 54,225/- and Rs. 2,99,490/- were issued. The Petitioner preferred appeal before the Conservator of Forest which was dismissed. Thereafter, the Petitioner approached this Court challenging the said orders of recovery in Writ Petition (S) No. 2199/2013 and Writ Petition (S) No. 2200/2013. The said Petitions were allowed and the orders of recovery as well the order of the Lower Appellate Authority were quashed. In pursuant the orders passed by the High Court the retiral dues and pensionary benefits were released to the Petitioner in the month of November, 2016.

3. It is this release of the retiral benefits and pensionary dues after a substantial period of time which forced the Petitioner to file this Petition seeking for interest on the delayed payment.
4. Counsel for the State however opposes the petition on the ground that the entire amount has been released and that under the State Government there is no policy for granting interest on the retiral dues and pensionary benefits. It was for this reason only the principal amount has been released to the Petitioner. He further submits that the Respondents may not be saddled with the interest on the said amount.
5. So far as the facts narrated in the preceding paragraphs being undisputed, there is apparently a delay of about 6 years in releasing the retiral dues and the pensionary benefits to the Petitioner. This Court is inclined to draw an inference against the State Government for non releasing of the retiral dues and pensionary benefits immediately, as illegally retained money. Since there is a illegally retained money with

the Respondent State the entire amount which has been released belatedly would definitely accrue interest.

6. This view of this Court also stands fortified by a series of decision of the Supreme Court so far as the interest on delayed retiral dues and pensionary benefits are concerned.
7. 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.
8. 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.
9. 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. Dharendra Pal Singh [2017 (1) SCC 49]**.
10. Considering the authoritative decisions of Hon'ble Supreme Court in the cases of **D.D. Tewari and Dharendra 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.

11. If interest for delayed payment is not given to the Petitioner it would be great injustice which has been caused to them for living without any retiral dues and pensionary benefits for a period of around 6 years. Thus this Court has no hesitation in reaching to the conclusion that for the delay in releasing the pensionary benefits and retiral dues to the Petitioner, he is entitled for interest on the said amount. Thus the Petition stands allowed.
12. Accordingly, the Respondents are directed to calculate the interest on the delayed payment to the Petitioner at the rate of 10% from the date it fell due till the date it has been released to the Petitioner.
13. Let this exercise be done within a period of 90 days from the date of receipt of certified copy of this order. It shall be the duty of the Petitioner to produce the certified copy of this order before the Respondent No.2 who in turn shall process the case and send it to the appropriate authority for doing the needful.
14. With the aforesaid observation the present Writ Petition stands allowed and disposed off.

Sd/-

**(P. Sam Koshy)
JUDGE**