

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (S) NO. 5992 OF 2016

Smt. Krishna Chanay W/o Late Shri Karan Singh, Aged About 50 Years R/o Naya Durga Mandir Para, Farasgaon, District Kondagaon, (Chhattisgarh)

... Petitioner

Versus

1. State of Chhattisgarh, Through: Secretary, Department Of Schedule Caste And Schedule Tribe Development, Mahanadi Bhawan, New Mantralaya, Raipur, (Chhattisgarh)
2. The Commissioner, Department Of Schedule Caste And Schedule Tribe Development, Indrawati Bhawan, New Mantralaya, Raipur, (Chhattisgarh)
3. The Collector, Kondagaon, District Kondagaon, (Chhattisgarh)
4. The Assistant Commissioner, Office Of The Collector, Tribal Development, Kondagaon, District Kondagaon, (Chhattisgarh)
5. The Block Education Officer, Farasgaon, Kondagaon, District Kondagaon, (Chhattisgarh)
6. The Joint Director, Treasury Account And Pension, Raipur, District Raipur, (Chhattisgarh)
7. The High Power Pension Committee, Mahanadi Bhawan, New Mantralaya, District Raipur, (Chhattisgarh)

... Respondents

For Petitioner	:	Mr. R.K. Kesharwani, Advocate.
For Respondents	:	Mr. Gary Mukhopadhyay, Dy. Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06/03/2017

1. Grievance of the Petitioner is that, the husband of the Petitioner was working as Assistant Teacher in Government Primary School, Bhainsabeda, Block Farasgaon, District Kondagaon. He died in harness on 10.1.1999. After his death, the Respondents immediately released pension and pensionary benefits. However, they did not release the benefit of leave encashment and the payment under the Family Welfare Fund Scheme to the Petitioner.
2. Since the said amount was not released for a considerable period of time, the Petitioner preferred a writ petition i.e., Writ Petition No. 549 of 2016, before this Court. Vide order dated 23.2.2016, this Court referred the matter to the High Power Pension Committee constituted by the Respondent-State Government for settlement of retiral benefits of the deceased employee and

the matter was processed by the said Committee which in turn on 28.6.2016 reached to the conclusion that there has been a negligence on the part of the officers of the Respondent-State Government in not finalising the dues of leave encashment and Family Welfare Fund payable to the Petitioner and accordingly proposed for taking appropriate disciplinary action against the erring officers for the inordinate, unexplained delay caused on the part of the Respondents.

3. Meanwhile, the Respondents have released the leave encashment dues to the Petitioner amounting to Rs. 55,968/- on 18.11.2014 after about 15 years from the date of death of the deceased employee. Likewise, the payment under the Family Welfare Fund scheme amounting to Rs.39,585/- also has been released to the Petitioner only on 2.5.2016 that is after about 17 years from the date of death of the deceased employee.

4. The present writ petition has been filed seeking for a direction to the Respondents that for the inordinate, unexplained delay caused on the part of the Respondents in releasing the leave encashment as well as the payment under the Family Welfare Fund Scheme, the Petitioner may be granted the relief of interest on the said amount for the delayed period.

5. According to the Counsel for the Petitioner, the Petitioner right from the time of death of her husband has been approaching the authorities concerned for settling the dues particularly the leave encashment and of Family Welfare Fund Scheme, but the Respondents did not care to settle the dues and in the process the Petitioner had to face great hardships. Counsel for the Petitioner further submits that after the death of the deceased employee, it was this money which the Petitioner would have received, with which she had to sustain herself. That in the absence of non-granting of the entire dues in time she had to face great difficulties and hardships to make both ends meet and therefore prayed for interest on the said amount.

6. 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 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 and they may take appropriate disciplinary action against the erring officer.

7. So far as the facts narrated in the preceding paragraphs being undisputed, there is apparently an inordinate and unexplained delay of 15 years in releasing the leave encashment dues and 17 years in the release of the payment under the Family Welfare Fund Scheme to the Petitioner. The Respondents have not given any plausible or justified explanation for the delay. There is also a categorical finding by the High Power Pension Committee of there being negligence on the part of the Respondents in not releasing the said amount timely, which further strengthens the case that the amount was not released for any specific purpose or for any particularly reason but was a sheer negligence on the part of the officers of the State Government in not releasing the same promptly.

8. At this juncture, 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.

9. 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 18.3.2013 in Writ Petition (S) No. 5231 of 2011, wherein the Court has allowed the said petition under similar circumstances.

10. 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*, reported in 2017 (1) SCC 49.

11. 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.

12. Accordingly, the Respondents are directed to calculate the interest on the leave encashment amount paid to the Petitioner at the rate of 9% from the date it fell due till the date it has been released to the Petitioner. Likewise, the Petitioner shall also be entitled for 9% interest on the payment under the Family Welfare Fund Scheme paid to the Petitioner in the year 2016, from the date it fell due till the date it was actually paid.

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 Respondent No.5 who in turn shall process the case and send it to the appropriate authority for doing the needful.

14. The writ petition thus stands allowed.

Sd/-
(P. Sam Koshy)
Judge