

HON'BLE SRI JUSTICE SURESH KUMAR KAIT
And
HON'BLE DR. JUSTICE SHAMEEM AKTHER

WRIT PETITION No.15391 of 2005

ORDER : (Oral)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present petition, petitioners-Union of India and others, have assailed the order dated 1st March 2005, passed in O.A.No.960 of 2004, whereby, the Tribunal directed the respondents to pay interest on the amount of arrears at the rate of 12% per annum from 01.05.1997 till the date of actual payment.

2. Learned counsel appearing on behalf of the petitioners submits that the respondent is not entitled to any interest because there was no delay on the part of the petitioners in payment of arrears actually due to the respondent. She submits that after orders are passed by the Tribunal, they took the matter upto the Supreme Court, however, the Supreme Court dismissed the SLP filed by the petitioners, vide order dated 15.12.1998. Learned counsel further submits, since the petitioners were pursuing the matter before appropriate forum available under the law, there was no delay, and hence, the question of paying interest on delayed payment, does not arise.

3. Vide O.A.No.960 of 2004, the respondent in this writ petition approached the Tribunal seeking to direct respondent No.4 in the O.A. to make payment of interest on the arrears on account of pay fixation consequent on counting the service rendered by him in the Army, granting increments on such service, which were withheld until the directions of the Tribunal in O.A.No.1281 of 1994. It is not in dispute that the order passed

in O.A.No.1281 of 1994 was confirmed by the Supreme Court. The Tribunal, in the said O.A., directed the petitioners to pay interest at the rate of 18% per annum from the date the arrears were withheld i.e. from 23.08.1980 with all consequential benefits.

4. It is pertinent to mention here that the order in O.A.No.1281 of 1994 was passed on 28.06.1996 and copy of the same was made ready in the Registry on 17.07.1996. The petitioners, thereafter, filed M.A.No.1083 of 1996 for extension of time for implementing the order and that M.A. was allowed by granting time upto 20.02.1997. Thereafter, the petitioners filed another M.A. for extension of time and the Tribunal allowed time upto 30.04.1997 for implementing the order. Meanwhile, the petitioners filed S.L.P. before the Supreme Court on 09.04.1997, which was ultimately dismissed on merits on 15.12.1998. Thereafter, the petitioners on 29.07.1997, directed the respondent to deposit the amount and the respondent deposited the amount on 29.07.1997 and 11.08.1999. Thereafter, the respondent was paid the arrears on 20.08.1999.

5. The issue raised in the instant petition, whether interest on the delayed retiral benefits is to be granted or not, has already been decided in a catena of judgments of Supreme Court. In the case of **Gurdial Singh v. Union of India & others**¹, while setting aside the order of the High Court and allowing the appeal, directed that appellant therein was entitled to grant of pension by the State of Punjab and the Union Government as determined vide Annexures P-9 and P-10, but with effect from March, 1996. It was further directed that the arrears shall be calculated and paid to the appellant therein positively within a period of six weeks from the said date, failing

¹ 2001 (7) Supreme 216

which, the appellant therein was entitled to interest at the rate of 12% per annum from March, 1996 till the date arrears are actually paid.

6. In the case of **D.D.Tewari (D) through L.Rs. v. Uttar Haryana Bijli Vitran Nigam Ltd. & others²**, it is held that the appellant therein was entitled to interest at the rate of 9% per annum on delayed payment of retiral benefits.

7. The present case is also covered by the judgments mentioned above.

8. In view of above, we find no merit in the present petition. The writ petition is hereby dismissed.

9. The petitioners are directed to pay interest on arrears as per the directions of the Tribunal within four weeks from the date of receipt of this order.

Pending miscellaneous applications, if any, shall stand closed.

SURESH KUMAR KAIT, J

DR. SHAMEEM AKTHER, J

21st June 2017

ajr

² SLP (C) No.25015 of 2011, dated 01.08.2014.