$~36

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 6336/2017

UNION OF INDIA AND ANR ..... Petitioners

Through: Ms.Rashmi Malhotra & Mr.Himanshu Kaushik, Advocats.

versus

CHANDER KANT DUBEY ..... Respondent

Through

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MS. JUSTICE REKHA PALLI

<u>O R D E R</u>

% 26.07.2017

<u>CM No.26246/2017</u>

Exemption allowed subject to all just exceptions.

The application stands disposed of.

<u>W.P.(C) 6336/2017 & CM No.26245/2017</u>

The petitioner has assailed the order dated 22.08.2016 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in OA No.1373/2014. By the impugned order, the Tribunal has held that the respondent-applicant is entitled to simple interest at the rate of 9% per annum on delayed payment of pension as well as leave encashment as also on gratuity from the due date.

The respondent was compulsorily retired from service while he was facing charge-sheet. However, it appears, that he could not receive his retiral dues including leave encashment on time after his retirement. Therefore, he approached the Tribunal and the Tribunal directed the petitioners to pay simple interest for late payment of pension, leave encashment and gratuity @ 9% per month from the due date.

The submission of learned counsel for the petitioner is that no interest could be claimed, or be paid in respect of leave encashment amount. In this regard, reliance is also placed on office memorandum dated 01.05.2012 issued by the Ministry of Personnel, Public Grievance and Pensions, Department of Pension & Pensioner's Welfare. Specific reliance is placed on Para 2(vi) of the said office memorandum which reads as follows:-

> "2(vi) In the matter of delayed payment of leave encashment, the Department of Personnel & Training in their note dated 2.8.1999 had clarified that there was no provision under CCS (Leave) Rules for payment of interest or for fixing responsibility. Moreover, encashment of leave is a benefit granted under Leave Rules and not a pensionary benefit."

We are not impressed by this submission of the petitioner. The petitioner does not dispute the fact that there has been a delay in release of the pension, as well as the leave encashment to the respondent. Since there was a delay in release of the amount of leave encashment, the respondent was entitled to be compensated by way of payment of interest. Interest is made payable so as to compensate the retired employee for the depreciating value of money. The Tribunal has taken note of several decisions in this regard.

So far as leave encashment is concerned, Para 2(vi) of the OM dated 01.05.2012 does not purport to restrict the right of the retired employee to claim interest, merely because there is no provision in the CCS (Leave) Rules for payment of interest or for fixing responsibility in respect of late release of leave encashment benefit. The employee who was entitled to receive leave encashment benefit within the prescribed period after his retirement cannot be left waiting for release of his benefits amount, without any consequences to the department concerned.

We find no merit in this writ petition and the same is hereby dismissed.

The pending application is also dismissed as infructuous.

VIPIN SANGHI, J

REKHA PALLI, J

JULY 26, 2017
gm