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

\+ W.P.(C) 6341/2017 & C.M. Nos.26265-66/2017

UNION OF INDIA & ORS

..... Petitioner

Through: Dr. Ashwani Bhardwaj, Adv.

versus

YAD RAM SHARMA

..... Respondent

Through:

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

O R D E R

% **26.07.2017**

The petitioner has preferred the present writ petition to assail the order dated 20.02.2017 passed in O.A. No.4210/2012 by the Central Administrative Tribunal, Principal Bench, New Delhi (CAT/ Tribunal). The tribunal only partially allowed the O.A. preferred by the respondent by directing that interest be paid on delayed release of the retirement dues to the respondent at the rate applicable to GPF deposits.

We need not get into the detailed factual matrix. We may only observe that the respondent was initially convicted by the Trial Court. His criminal appeal before the Court of Sessions succeeded. The High Court of Rajasthan dismissed the appeal preferred by the State on 02.01.2008. The respondent had attained the age of superannuation before the dismissal of the said appeal on 31.05.2005. His grievance before the tribunal, inter alia, was that he was not released his retiral dues within a reasonable period of the decision of the High Court in the State's appeal. The tribunal has held that the respondent would be entitled to interest after the expiry of a period of three months from the date of receipt of copy of the judgment of the High Court dated 02.01.2008.

The submission of learned counsel for the petitioner is that no interest can be claimed on the leave encashment dues. In this regard, he places reliance on the O.M. dated 01.05.2012 issued by the Ministry of Personnel, PG & Pensions, Department of Pension & Pensioner's Welfare and in particular para 2(vi) of the said 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 have today itself in W.P. (C.) No.6336/2017 rejected the same argument. We have held as follows in the said decision:

> "*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 further submission of Mr. Bhardwaj is that - the fact that in the relevant rules there is no provision for payment of interest, tantamounts an implied bar against grant of interest.

We cannot accept this submission either. If the intention of the rule making authority was to bar the grant of interest on delayed payment, on any account whatsoever, the same would have been specifically so provided. The implication of the absence of such a rule cannot be understood to mean that grant of interest in a justified situation is barred.

We find no merit in this petition. Dismissed.

VIPIN SANGHI, J

REKHA PALLI, J

JULY 26, 2017

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