

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 2874 of 2010**

Gend Kumar Gupta, S/o. Shri R.R. Gupta, Aged about 59 years, R/o. Krishna Nagar, Juna Bilaspur, District Bilaspur Chhattisgarh

---- Petitioner**Versus**

1. Chhattisgarh Infrastructure Dev. Corp. Through: Managing Director, Transport Dept. Raipur, Chhattisgarh
2. Divisional Manager, CIDC, Bus Stand, Bilaspur, Chhattisgarh

----Respondents

For Petitioner	:	Mr. Vinod Deshmukh, Advocate along with Mr. K.P.S. Gandhi, Advocate
For Respondents	:	Mr. Ashish Shrivastava, Advocate along with Mr. Soumya Roy, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****17/04/2018**

1. The grievance of the petitioner is that though the petitioner stood retired from the respondents by way of Voluntarily Retirement Scheme w.e.f. 31.01.2003 and that the retiral dues were not paid timely to the petitioner and he had to file a writ petition before this Court i.e. WP No.2181/2003. The said writ petition was filed seeking for a relief of a direction to the respondents to pay a total sum of Rs.1,51,542/- towards different heads with admissible interest and also for an amount of Rs.2,34,192/- under the Provident Fund with interest on it.
2. The said writ petition stood finally disposed of on 19.03.2009. The said writ petition was disposed of in the light of the submissions made by the counsel for the respondents-corporation stating that the entire dues payable to the petitioner stood released and which was not rebutted by the petitioner before the High Court and it was also

agreed between the parties that any suit or any case pending before any Court in respect of realization of his retiral dues would be deemed to have been withdrawn. Pursuant to the said submissions made, the writ petition itself was disposed off.

3. However, the High Court had made an observation that if still certain amounts were not paid to the petitioner, he would be at liberty to make a representation and the respondents would consider the same in accordance with law and merit.
4. Subsequent to the said disposal of the writ petition, as no action was initiated by the respondents, a contempt petition was filed, which was registered as Contempt Case No. 216/2009. The said contempt petition also stood disposed of on 09.02.2010, wherein it was stated by the respondent-contemner that subsequently the representation of the petitioner has been decided and an amount of Rs.13,542/- has been paid to the petitioner on 24.08.2009.
5. The counsel for the petitioner now has filed the present writ petition seeking for interest on the delayed payment of retiral dues paid to the petitioner and also quashing the order dated 24.08.2009.
6. The counsel for the respondents however opposing the petition submits that the payment, which has been made subsequently to the petitioner vide Exhibit P/1 is not a delayed payment in fact that is a differential amount which could be ascertained only subsequently and therefore the said amount would not carry interest and the writ petition as such in the light of the decision of this Court in WP No. 2181/2003 and also the order of this Court in Contempt Case No.216/2009 deserves to be rejected.

7. Having heard the contentions put forth on either side and on perusal of the record, what clearly reflects is that the petitioner's claim till 19.03.2009 stood completely redressed and he had also expressed his satisfaction to the payment received by him and has also given an undertaking that he would not have any further claim so far as any outstanding dues, which were paid by the respondents.
8. However, since there were certain additional payments made by the respondents to the petitioner which was towards difference in the ex-gratia payment payable to the petitioner on his retirement as also the amount of gratuity which was also payable to the petitioner, which together comes to Rs.13,542/- as is reflected from Annex.P/1 dated 24.08.2009.
9. Considering the entirety of the facts and circumstances of the case, particularly in the light of the observations made by the High Court in WP No. 2181/2003, this Court is of the opinion that any claim of the petitioner so far as the payment, which were made to the petitioner prior to 19.03.2009 i.e. the date of the disposal of the writ petition, the petitioner would not be entitled for any relief, as there is a word of satisfaction expressed by the counsel for the petitioner while disposal of the writ petition itself.
10. However, this Court has no hesitation in holding that in case of any payment which has been made to the petitioner subsequent to the disposal of the said writ petition that is any payment made after 19.03.2009, the same shall carry interest as the same would amount to delayed payment made to the petitioner.
11. Since the amount of Rs.13,542/- was receivable by the petitioner at

the time of his retirement i.e. on 31.01.2003 and was being paid after about a period of 6 years, this Court is of the opinion that the said amount definitely would carry interest. Accordingly, it is ordered that on the said amount of Rs.13,542/- the respondents shall pay an interest to the petitioner @ 6% per annum from the date of retirement till the date of its actual payment.

12. It is made clear that the respondents shall verify from the accounts department, whether the petitioner has been paid interest on the difference of ex-gratia payment so also on difference of gratuity payment paid to the petitioner on 24.08.2009. In case, if interest has been paid, then the petitioner would not be entitled for any interest further. However, in case if the interest has not been paid the petitioner would be entitled for the said amount.
13. The writ petition accordingly stands allowed and disposed off to the aforesaid extent.

Sd/-
(P. Sam Koshy)
Judge