

HIGH COURT OF CHHATTISGARH, BILASPUR

REVP No. 90 of 2017

Smt. Indu Singh W/o Late Shri Amar Deo Singh Rathore, Aged About 57
Years Present Address R/28, Padmanabhpur, Durg Earlier Address Quarter
No. 1- A, Street 21, Sector-2, Bhilai, District Durg Chhattisgarh ---- **Petitioner**

Versus

1. State Of Chhattisgarh Through Principal Secretary, Forest Department, Govt. Of Chhattisgarh, Mahanadi Bhavan, Naya Raipur, District Raipur Chhattisgarh
2. State Of Madhya Pradesh, Through Principal Secretary, Forest Department, Govt Of Madhya Pradesh, Mantralaya, Vallabh Bhavan, Bhopal (MP)
3. The Divisional Forest Officer, Forest Division Dhamtari, Forest Circle Raipur, District Dhamtari Chhattisgarh
4. Conservator Of Forest, (Administration) Madhya Pradesh, Bhopal (MP)
5. Additional Principal Chief Conservator Of Forest (Administration), Govt. Of Chhattisgarh, Raipur Chhattisgarh ---- **Respondents**

For Petitioner	:	Shri MPS Bhatia, Advocate
For State/Respondents No.1,3,4 & 5	:	Shri Ashish Shukla, Dy. A.G.

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

12/09/2018

Heard.

1. In this petition seeking modification of the order passed earlier, learned counsel for the applicant submits that at the time of allowing the petition and taking into consideration that there was long delay in payment of various pensionary benefit, the Court had directed payment of family pension from due date within four months. However, the interest though prayed for, was not granted. He would submit that as there is no statutory provision obliging the respondent to pay interest on delayed payment, unless there is a judicial order, the respondent may not pay any interest to the petitioner.

2. On the other hand, learned State counsel submits that as the Rules applicable do not provide for payment of interest on delayed payment of pension, the respondents are unable to pay the interest.

3. The petitioner filed petition for quashment of order dated 02.08.1995, by which, proposal for grant of regular appointment of petitioner's late husband was rejected. A prayer was also made for direction to release family pension in her favour along with interest.

4. Upon due consideration of the matter on merits, this Court reached to the conclusion that the Government's order was clearly illegal and arbitrary and the said order dated 02.08.1995 was set aside with the consequential direction for issuance of necessary order granting ex post facto sanction for regular status to the deceased employee and, thereafter, consideration of claim for grant of family pension from due date and also payment of the arrears thereof.

5. The order passed by this Court was also taken up in writ appeal and vide order dated 02.11.2015, the appeal was dismissed subject to directions that the petitioner shall not be entitled to dearness allowance.

6. Learned counsel for the petitioner brought to the notice of this Court the judgment of the Hon'ble Supreme Court in the case of **Harijan Paniben Dudabhai Vs. State of Gujarat and others, 2016 (12) SCC 801**, wherein the Supreme Court directed payment of interest on delayed payment of pensionary benefit. In the said decision, the Hon'ble Supreme Court issued following directions as below :

“17. In appeal arising out of SLP(C) No.9756 of 2011, the deceased husband of the present appellant was appointed as Sanitary Inspector by Okha Gram Panchayat on 14.12.1964 and the said appointment was later confirmed by Development Commissioner vide order dated 5.4.1973. In accordance with the view taken by us in the lead matter, this appeal also deserves to be allowed. Allowing the appeal, we direct the respondents to pay to the appellant all the arrears of family pension and the amount of gratuity with simple interest at the rate of 9% per annum within two months from the date of this Judgment.

18. In appeal arising out of SLP(C) No.1305 of 2011 the appellant, 55% physically handicapped, was appointed as Typist-cum-Clerk on 13.10.1969 and retired from service in the year 2001. It is true that his appointment was made after the Gujarat Panchayat Service (Appointing Authorities) Rules, 1967 and other set of rules came into force. But nothing has been placed on record indicating any prevalent procedure which was allegedly infringed or any reason why his appointment could be termed as illegal or invalid. All through his service till he retired, he was paid all the emoluments and salary like any regular employee. We see no reason why the appellant could be denied the pensionary benefits and gratuity. We allow this appeal and direct the respondent to pay to the appellant family pension and the amount of gratuity with simple interest @ 9% p.a. within two months from the date of this Judgment.”

7. In view of the above, this Court is also inclined to modify the earlier order only to the extent that the petitioner shall be entitled to simple interest @ 9% per annum from the due date.
8. This review petition is accordingly disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge