

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No.6077 of 2011

Harish Chandra Pase (since dead) through LRs-

1. Draupati Bai Pashe W/o Late Harish Chandre Pashe Aged About 50 Years
2. Kumari Prabha Pashe D/o Late Harish Chandra Pashe Aged About 30 Years
3. Rajkumar Pashe S/o Late Harish Chandra Pashe Aged About 28 Years
4. Kamlesh Pashe S/o Late Harish Chandra Pashe Aged About 25 Years
5. Rakesh Kumar Pashe S/o Late Harish Chandra Pashe Aged About 22 Years

All are R/o Quarter No. H I G - 6, Arya Colony Tifra P.S. - Civil Lines, Tahsil and District – Bilaspur, Chhattisgarh (CG).

... Petitioners

Versus

1. Chhattisgarh State Power Distribution Company Limited Raipur C.G., Chhattisgarh through the Managing Director, Chhattisgarh State Power Distribution Co. Ltd. (CG).
2. The Managing Director, Chhattisgarh State Power Holding Company Limited, Raipur, Chhattisgarh.
3. The General Manager, Chhattisgarh State Power Holding Company Limited, Raipur, Chhattisgarh.
4. The Deputy General Manager, Human Resource - II, Chhattisgarh State Power Holding Company Limited, Raipur, Chhattisgarh.
5. The Chief Engineer, Bilaspur Circle, Chhattisgarh State Power Distribution Company Limited Bilaspur, Chhattisgarh.
6. The Executive Engineer, Distribution / Resource, Chhattisgarh State Power Distribution Company Limited, Manendragarh District – Korea, Chhattisgarh.

... Respondents

For Petitioners	:	Shri Rishi Rahul Soni, Advocate.
For Respondents	:	Shri Amiyakant Tiwari, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

05/04/2018

1. The limited grievance of the petitioner in the instant case is non granting of interest on the delayed payment of retiral dues paid to the petitioner.

2. The facts of the case are that, the petitioner while working as Meter Reader with the respondents applied for Voluntary Retirement Scheme (in short, VRS) on 25.11.1999. The said application for grant of VRS was initially refused by the department vide order dated 03.07.2001. Non granting of VRS was on account of pending departmental enquiry against the petitioner. However, since the departmental enquiry was pending against the petitioner for long, he preferred a writ petition before the High Court which was registered as WP No. 2186 of 2001 which stood disposed of on 01.07.2005 with a direction that the respondents shall conclude the departmental enquiry at the earliest preferably within a period of three months. Subsequently, the departmental enquiry stood culminated and the petitioner was exonerated of all the charges levelled against him vide order dated 01.09.2005.
3. Pursuant to exoneration of the petitioner from the departmental enquiry, the respondents issued an order on 06.09.2005 allowing the petitioner's application for grant of VRS w.e.f. 25.11.1999 and accordingly the petitioner stood retired from service w.e.f. 25.11.1999. Though the petitioner stood retired from 25.11.1999 and his VRS application was accepted on 06.09.2005, the retiral dues payable to the petitioner was paid only in the year, 2006 on different dates as is evident from the affidavit filed by the officer of the respondents on 06.07.2013.
4. The details of payment of retiral dues paid to the petitioner would reveal that except for the GPF amount, the petitioner has not been paid any interest on any other amount paid to him. All these

amounts payable to the petitioner fell due on 25.11.1999 and the same was paid to the petitioner on different dates spreading between March, 2006 to August, 2006. Admittedly, the interest on these amount has not been paid to the petitioner by the department. Vide the impugned order, the respondents have held that under Service Rules, it is only GPF money which would carry interest and interest would not be payable on any other retiral dues payable. A similar stand was also taken by the respondents on an earlier occasion vide order dated 18.06.2010 which also gives details of the payment made to the petitioner on different dates and the Executive Engineer while deciding the said representation of the petitioner has also held that except for GPF amount, no other amount shall carry interest. It is this order which is under challenge seeking for interest on the delayed payment of retiral dues.

5. During the pendency of writ petition, the employee-Harish Chandra Pashe has expired and the writ petition is being prosecuted on behalf of his legal heirs who have subsequently been substituted.
6. A perusal of record would show that though the employee had applied for VRS, the same was not accepted by the department till Annexure P/5 was passed on 06.09.2005 i.e. to say that for the first time the application for grant of VRS was allowed by the department only on 06.09.2005 and it is only after 06.09.2005 that the employee was held entitled for retiral dues on his being retired though from a back date. Since the petitioner stood retired vide order dated 06.09.2005, it is expected that the respondents ought to have paid retiral dues promptly after 06.09.2005 when the respondents allowed

the application of the petitioner accepting his VRS from back date. Thereafter, all the payments have been made to the petitioner at belated stage and on different dates as is provided in the affidavit of Avinash Chauhan, Executive Engineer of the respondents-department on 06.07.2013.

7. There appears to be some delay in the payment so made. This court has no hesitation in holding that the employee would be entitled for the interest from the date VRS was accepted i.e. on 06.09.2005 till the actual payment was made on different dates.
8. Though the counsel for the respondents raised an objection that this issue is hit by principle of res judicata, this court is not inclined to accept the said objection for the simple reason that subsequent to the disposal of the previous litigations filed by the petitioner, there are two more orders passed by the respondents one is dated 18.06.2010 (Annexure P/14) and subsequently dated 15.07.2010 (Annexure P/1) which is under challenge in the present writ petition. Since the claim of the petitioner is pecuniary claim, it had to be considered as recurring cause of action and the subsequent orders dated 15.07.2010 and 18.06.2010 has to be construed as a fresh order having been passed by the respondents which would be a fresh cause of action giving rise to the petitioner to challenge in the writ petition and therefore, the petition cannot be said to be hit by principle of res judicata. The said objection of the respondents thus stands negated.
9. So far as grant of interest on the retiral dues is concerned, the issue by now is well settled by a series of decisions of the Supreme Court

leading among them being that of D.D. Tewari Vs. Uttar Haryana Bijli Vitran Nigam Limited & Others, 2014 (8)SCC 894. Relying upon the said judgment of Supreme Court, this court has also in similar terms applying the same analogy laid down in case of D.D. Tewari (Supra) have granted interest on the delayed payment of retiral dues in WPS No. 5992 of 2016 (Smt. Krishna Chanay Vs. State of Chhattisgarh & Ors.) decided on 06.03.2017 and in WPS No. 6261 of 2016 (Ratiyo Bai Vs. State of Chhattisgarh & Ors.) decided on 27.02.2017.

10. Given the aforesaid factual matrix of the case, the petitioners, who are legal heirs of the deceased employee, are entitled for interest on the retiral dues paid to the employee @ 9 percent per annum from 06.09.2005 onwards till the actual payment is made.
11. The writ petition stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge