

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 1357 of 2012**

Smt. Shashi Ahuja, Aged about 53 years, W/o. Late Shri S.K. Ahuja,
working as Assistant Grade-II, Regional Transport Office, Bilaspur,
District Bilaspur Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh, through: Transport Secretary, Department of Transport, Dau Kalyan Singh Bhawan, Raipur, Chhattisgarh
2. Transport Commissioner, Government of Chhattisgarh, Raipur, Chhattisgarh
3. Transport Commissioner, Government of Madhya Pradesh, Gwalior, Madhya Pradesh
4. Regional Transport Officer, Bilaspur, Chhattisgarh
5. Regional Transport Officer, Jabalpur, Madhya Pradesh

----Respondents

For Petitioner	:	Ms. Sharmila Singhai, Advocate
For State	:	Mr. Lav Sharma, Panel Lawyer
For Respondents No.3 & 5	:	Mr. Rajeev Shrivastava, Advocate along with Mr. Malay Shrivastava, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****02/05/2018**

1. The grievance of the petitioner in the instant case is that the husband of the petitioner late S.K. Ahuja, who died in a road accident on 03.09.1987 was not paid the death-cum-retiral dues for a considerable period of time and ultimately the same was released to the petitioner only in the year 2010 i.e. after about 22-23 years from the date of death of the deceased employee.
2. The claim of the petitioner is that though the payments have been made after about 22-23 years, the petitioner has been deprived of interest on the said amount, which otherwise she is legally entitled for, for the inordinate delay in making the payment to the petitioner.

3. The contention of the counsel for the State of Madhya Pradesh is that the State of Madhya Pradesh has promptly processed the case of death-cum-retiral dues payable to the petitioner, but there was a lapse on the part of the petitioner, if not withdrawing this amount from the bank and therefore the State of Madhya Pradesh as such was not at fault in the delayed releasing of the pensionary/retiral dues. The counsel for the State of Madhya Pradesh further submits that even if for any reason, there is a delay that has occurred, delay would be only till 2006, as by 2006 the entire payment had already been processed and sent to the Treasury office in the State of Chhattisgarh and thereafter if there is any delay, the interest part should be paid by the State of Chhattisgarh and for the period beyond 2006, the State of Madhya Pradesh cannot be held responsible.
4. The counsel for the State of Chhattisgarh on the contrary submits that the entire amount payable to the petitioner was to be paid by the State of Madhya Pradesh and that the State of Chhattisgarh is only the agency, which would release the same to the petitioner and that the State of Chhattisgarh as such is not the authority concerned, who are otherwise liable to release the benefit payable to the petitioner and thus prayed that the State of Chhattisgarh be not held liable for payment of interest.
5. Having heard the contentions put forth on either side and on perusal of the record, it reveals that the petitioner since she was not granted the retiral dues till 2005 had to take shelter before this Court by filing a writ petition i.e. WPS No. 4720/2005. The said writ petition finally got disposed of on 27.01.2010, wherein it was directed that the

respondents should immediately settle the grievance of the petitioner by releasing the death-cum-retiral dues payable to the petitioner. Immediately thereafter the authorities concerned took necessary steps and finally the payment has been released to the petitioner on 22.04.2010 i.e. after about 22-23 years from the date it fell due.

6. It is settled position of law that any payment which has been paid to an employee at a belated stage, which in the instant case is inordinate to the extent of 22-23 years, the petitioner cannot be deprived of the interest, which would have otherwise accrued on the said amount.
7. It would be trite to refer to the decision of Hon'ble Supreme Court rendered in the case of "***D.D. Tewari v. Uttar Haryana Bijli Vitran Nigam Limited & Others***" [2014 (8) SCC 894], wherein, relying upon the decision in the case of "***State of Kerala v. M. Padmanabhan Nair***" [1985 (1) SCC 429], it has been held that the pension, gratuity and retiral dues payable to an employee are not a bounty to be distributed by the Government to its employees on their retirement but are valuable rights and property in its hands and any culpable delay in settlement or disbursement thereof must be visited with the penalty of payment of interest. The Supreme Court has very categorically held that denial of interest amounts to miscarriage of justice.
8. Similar view has also been taken by the coordinate Bench of this Court in the case of "***Punarad Prasad Bhagal v. State of Chhattisgarh & Others***", decided on 18.03.2013 in Writ Petition (S) No. 5231 of 2011, wherein the Court has allowed the said petition under similar circumstances.

9. The view of this Court stands further fortified from the decision of the Hon'ble Supreme Court in the case of ***“State of Uttar Pradesh and Others v. Dhirendra Pal Singh” [2017 (1) SCC 49]***.
10. Considering the authoritative decisions of Hon'ble Supreme Court in the cases of ***D.D. Tewari and Dhirendra Pal Singh*** (Supra), this Court is of the opinion that it is a fit case where the Petitioner is entitled for interest on the delayed payment.
11. This Court, taking into consideration the aforesaid judicial pronouncements of the Hon'ble Supreme Court, so also of this High Court, the petitioner would be entitled for interest on the said amount and quantifies the interest @10% from the date of the death of the deceased employee i.e. 03.09.1987 till the date the actual payment has been paid to the petitioner.
12. Coming to the issue as to who would be liable to pay the interest part, the record shows that inspite of proper service being made on the State of Madhya Pradesh, till date they have not filed any response to the present writ petition, though they are duly represented before this Court. Further, perusal of Annexure P/2 reflects that the State of Madhya Pradesh had finally processed the claim of the petitioner only in the year 2006 and thereafter the same has been forwarded to the Treasury Office in the State of Madhya Pradesh. Therefore, this Court has no hesitation in holding that till the State of Madhya Pradesh had processed the claim of the petitioner, so far as releasing of the death-cum-retiral dues to the petitioner is concerned, was not finalized and the amount was not sent to the Treasury Office in the State of Chhattisgarh, it would be the State of Madhya Pradesh, who would be liable for interest on the said

amount, and therefore it is ordered that the State of Madhya Pradesh shall pay the interest on the dues payable to the petitioner @10% per annum from 03.09.1987, till the amount finally reached the office of the Treasury, Bilaspur, Chhattisgarh. Thereafter, the liability of interest would be on the State of Chhattisgarh for payment of interest from the date the amount reached the Treasury Office at Bilaspur till the actual payment has been made to the petitioner.

13. Let this exercise be done within a period of 90 days from the date of presentation of the certified copy of this order to the authorities concerned.
14. The writ petition accordingly stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved