

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 831 of 2015**

Rajendra Kumar Tiwari S/o Late Shri Kushal Prasad Tiwari Aged About 67 Years Retired Teacher, Govt. Girls Higher Secondary School, Sada, Korba R/o. MIG-19, Shivaji Nagar, Korba, District-Korba, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh, Through The Secretary, Tribal Welfare Department Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur, Chhattisgarh
2. Collector, Korba, District Korba Chhattisgarh
3. District Education Officer, Korba, District Korba Chhattisgarh
4. Block Education Officer, Korba, District- Korba Chhattisgarh
5. Principal, Govt. Girls Higher Secondary School, Sada, Korba, District- Korba Chhattisgarh
6. Joint Director, Treasury, Accounts And Pension Bilaspur Division, Bilaspur, District- Bilaspur Chhattisgarh
7. District Treasury Officer, Korba, District Korba, Chhattisgarh

----Respondents

For Petitioner	:	Ms. Naushina Afrin Ali, Advocate
For State	:	Ms. Sunita Jain, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****13/08/2018**

1. The relief sought for by the petitioner in the present writ petition is for granting of interest on the retiral dues paid to the petitioner at a much belated date from the date of retirement.
2. The facts of the case is that the petitioner retired from the post of Upper Division Teacher on 30.11.2008. The retiral dues i.e. arrears of 6th Pay commission and Leave Encashment amount of the petitioner were not released timely.

3. The counsel for the petitioner submits that on the date of retirement, there was no departmental enquiry pending against the petitioner, nor was the petitioner involved in any criminal offence nor was he issued with any charge sheet for any major misconduct and therefore for all practical purposes the respondents should have promptly released the retiral dues payable to the petitioner. According to the petitioner, there is no reason whatsoever for the State Government to have delayed the releasing of the retiral/pensionary benefits payable to the petitioner and thus prayed for the interest to be awarded to the petitioner.
4. The State counsel however opposing the petition submits that it is a case where the case of the petitioner was promptly processed by the State Government, but the petitioner kept on making correspondences with the State authorities and in the process the delay occurred. He further submits that there were also certain objections raised by the office of the Joint Director (Treasury, Accounts & Pension) and for which reason also, there occurred some delay in releasing the pensionary benefits and thus prayed for rejection of the writ petition.
5. Having heard the contentions put forth on either side and on perusal of record, what has to be considered is the fact that the petitioner undisputedly stood retired on superannuation on 30.11.2008. On the date of superannuation, there was no departmental enquiry initiated or contemplated or pending against the petitioner. The petitioner in fact was paid his retiral dues only on 26.07.2013. From the perusal of record, it appears that except for the administrative reasons of the files being processed at different levels by the different officers, there

does not seem to be single strong reason for withholding or delaying the retiral dues payable to the petitioner.

6. 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.
7. 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.
8. 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].
9. 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.

10. Considering the aforesaid legal position as it stands, so far as the judicial pronouncement of granting interest on the delayed retiral dues are concerned, this Court is of the opinion that present is also a fit case where it clearly reflects that the petitioner has been deprived of his retiral dues immediately on his retirement and had to run from pillar to post for the release of the same and which he has obtained after more than 5 years from the date of his retirement.
11. Under the circumstances, the writ petition deserves to be and is accordingly allowed. The respondents are directed to pay interest on the petitioner's retiral dues @9% per annum from the date of retirement, till the date, the actual payment is made. Let the payment of interest be calculated and released to the petitioner at the earliest preferably within 90 days.

Sd/-
(P. Sam Koshy)
Judge

Ved