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HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4183 of 2019

1. Union of India Through The Secretary, Ministry of Communication And I.T. Department of Post, Dak Bhawan, Sansad Marg, New Delhi.
2. The Sr. Supdt. of Post Officer Raipur Division, Station Road, Raipur, 492001
3. Dy. Director of Accounts Postal, Tikrapara, Raipur, Chhattisgarh. 492001.

---- Petitioners

Versus

- Nakul Ram Diwan S/o Late Shri Mahanguram Aged About 72 Years Retired Postman, R/o Village And Post- Baarula, Via- Gariyaband, Raipur, Chhattisgarh. 492001

---- Respondent

For Petitioner / Union of India : Shri B. Gopa Kumar, Assistant Solicitor General
For Respondent : Shri B. P. Rao, Advocate

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

Per, P.R. Ramachandra Menon, Chief Justice

16/12/2019

1. Correctness of the verdict passed by the Central Administrative Tribunal (hereinafter referred to as 'the Tribunal') as per Annexure-P/1, awarding interest for the delay in disbursement of the pensionary benefits to the Respondent herein, who was the applicant before the Tribunal, is the subject matter put to challenge at the instance of the Respondents in the OA.

2. Heard Mr. B. Gopa Kumar, the learned Assistant Solicitor General for the Petitioners and Mr. B. P. Rao, the learned counsel appearing for the Respondent at length.

3. The gist of the factual matrix reveals that the Respondent was working as a Postman in the Postal Department, who, on attaining the age of

superannuation, retired from the service on 31.01.2006. The Respondent was eligible to have pension as per relevant rules with reference to the number of completed years of service, which however has undergone substantial change by virtue of the Department of Pension and Pensioners' Welfare (DOPPW) Office Memorandum (OM) dated 10.12.2009. Eligibility for getting pension was reduced to 20 years (instead of 33 years) and the rate was also enhanced, by virtue of which a sizable amount was payable to the Respondent. On coming across the said OM, a representation was preferred on 07.11.2017, which was considered and arrears were worked out as Rs. 2,51,290/-, which was disbursed to the Respondent. This however, was not adequate enough, according to the Respondent, who moved the Tribunal by filing the OA with the following prayers, also claiming for interest:

> "8.1 That, the Hon'ble Tribunal be pleased to call for records of Applicants' case from the possession of the Respondents for its kind perusal and to decide the grievance of the poor Applicant.
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> 8.2 That, Hon'ble Tribunal be pleased to pass an Order, directing the Respondents to release 12% Interest on arrears of Revised Pension Amount paid to the Applicant from 01.02.2006 to 31.12.2015 in the interest of justice."

4. The claim for interest was disputed by the Petitioners herein, pointing out that there was a lapse on the part of the Respondent and that there was no lapse on the part of the Employer / Government. No representation was submitted by the Applicant within a reasonable time, though 'DOPPW' OM was issued way back on 10.12.2009 and that there was no legal or factual basis for the claim. The said contention was turned down by the Tribunal, who declared the eligibility of the Applicant to get interest, which was ordered to be paid at the GPF rate. This made the Respondents in OA to feel aggrieved, who are before this Court challenging Annexure P/1 order passed by the Tribunal.

5. Mr. B. Gopa Kumar, the learned Assistant Solicitor General reiterated the submission based on the pleadings taken before the Tribunal; adding that there was no lapse in any manner on the part of the Department. The OM was issued in the year 2009 and there is no case for the Respondent / Applicant that he had sought for the benefit of OM earlier. The 1st application in this regard was filed only on 07.11.2017. Immediately on receipt of the representation, the due amount was worked out and was given; under which circumstance, it was not correct or proper for the Tribunal to have ordered for payment of interest, shortly after issuance of the OM that too, at GPF rate and hence the challenge.

6. The learned counsel representing the Respondent submits that stand taken by the Petitioners / Department is not correct; that the eligibility of the Respondent to get pension was very much known to the Respondent in OA; that he was being paid a pension of Rs.3,500/- per month as per the old rules and further that the Respondents / Authorities in the OA themselves had corrected the 'Pension Payment Order' on 17.07.2017, w.e.f. 17.07.2017. This being the position, the balance amount payable as per the said OM dated 10.12.2009 ought to have been worked out and disbursed, where they have gone wrong. Hence the Tribunal is justified in awarding interest at the GPF rate and no interference is warranted, in the said circumstance, submits the learned counsel.

7. After hearing both the sides, we find that the eligibility of the Respondent to get the pension revised in terms of 'DOPPW' OM dated 10.12.2009 stands considered. It may be true that the 1st representation submitted by the Respondent / Applicant in OA was only on 07.11.2017, but the factum of the issuance of the said OM in the year 2009 was very much known to the Department and the Department itself had corrected the PPO w.e.f.

17.07.2017, as contended by the learned counsel for the Respondent. There is no case for the Petitioners herein / Respondents in OA that on issuance of OM, they had issued any memo to the retired employees including the Applicant in OA as to the eligibility of enhanced amount requiring the Applicant / pensioner to submit the relevant documents / records so as to enable the Department to process the claim and to have it disbursed. Having issued no such notice, it cannot be said by the Petitioners that there was serious lapse on the part of the Applicant in approaching the Department, claiming the benefit of the DOPPW OM dated 10.12.2009.

8. The issue can be approached in a different angle as well. Admittedly, by virtue of the above OM, certain additional amounts had become payable to the employee / pensioner. The Respondent / Applicant in OA had retired from the service on 31.01.2006 and it was much thereafter, that the OM was issued. Since the Applicant was not informed as to the issuance of OM, who came to know about it only later, especially since he was not a serving employee and had only limited source to come across such periodical notice / OM. The Department was virtually retaining the amount payable to the pensioner at their hands, utilizing the said amount for such other purposes, which may have generated interest as well. The retention of such amount at the hands of the Petitioners / Government / Department was only a 'trustee'. Whatever amount has accrued by virtue of such retention, it should be passed on to the hands of the pensioner. This is more so, when the Respondent herein was only occupying the lowest post in the hierarchy and every possible effort ought to have been taken by the Department to see that the beneficial provisions introduced by the Government should actually reach the hands of such eligible lots. Since

the retention of the amount payable to the Applicant at the hands of the Department / Government has only benefited the Department / Government, we are of the view that the said amount requires to be disbursed to the Applicant with interest as ordered by the Tribunal and there is nothing wrong in this regard. Annexure-P/1 order passed by the Tribunal is perfectly within the four walls of law and is not assailable under any circumstance.

9. Interference is declined. Petition stands dismissed. However, considering the submission made by the learned Assistant Solicitor General, we find it appropriate to grant three months' time to work out the interest and effect the payment to the Respondent as per the OM dated 10.12.2009.

Sd/-	Sd/-
(P.R. Ramachandra Menon) Chief Justice	**(Parth Prateem Sahu)** Judge

Chandra