

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 2925 of 2014.**

R. N. Gupta S/o Late Shri J. L. Gupta, Aged About 66 Years, Occupation- Retired Engineer In Chief, Public Health Engineering Department, Government of C.G. Raipur And Distt. Raipur C.G. At Present Address- 65 Ashwariya Residency Telibanda Road, P.S. Telibanda And Distt. Raipur, Civil And Revenue Distt. Raipur C.G.

---- Petitioner**Versus**

1. State of Chhattisgarh, through the Secretary, Department of Public Health Engineering, Mantralaya, Mahanadi Bhawan, Naya Raipur (Chhattisgarh).
2. Engineer In Chief, Public Health And Engineering Department, Neer Bhawan, Civil Line, Raipur C.G.
3. Mr. P.C. Dalei, Aged About 63 Years, Former Principal Secretary, Public Health Engineering Department & Presently Posted As State Election Commissioner, Near Shastri Chowk, Dau Kalyan Singh Bhawan, Raipur C.G.

---- Respondents

For Petitioner	:	Shri R. N. Gupta, petitioner in person
For State	:	Shri Himanshu Kumar Sharma, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****15.04.2019**

1. The grievance of the petitioner in the present writ petition was three folds: First was for an action to be taken against the erring officers of the respondents for having delayed payment of retiral dues to the

petitioner. The ground for initiating action was that the petitioner was illegally and wrongly subjected to departmental enquiry immediately after his retirement. Second was for payment of interest on the belated release of leave encashment as also gratuity amount. The third relief was for compensation for the mental agony and harassment the petitioner faced.

2. The facts relevant for adjudication of the present dispute are that the petitioner stood retired from the post of Engineer-in-Chief on 31.03.2009. Subsequent to his retirement, according to the petitioner himself, he was promptly released the GPF but he was not released his leave encashment and gratuity amount that he was entitled for. The leave encashment was released to the petitioner only on 27.06.2013 and the gratuity amount was released on 30.10.2013. The two payments were released to the petitioner after a period of more than 4 years from the date of his retirement from service. According to the petitioner, he has been deprived of this amount for no reason or no fault on his part and therefore, he should be suitably compensated by paying interest on the said amount.
3. The second grievance of the petitioner was that he stood retired on 31st March, 2009. After demitting Office, the respondents issued a letter in the evening of 31st March, 2009 intimating the petitioner that the Department intends to proceed departmentally against him though no charge sheet was issued. The charge sheet was finally issued only on 25.04.2009 i.e. after about one month from the date of his superannuation. Meanwhile, the petitioner had questioned the

issuance of charge sheet in WPS No. 2527 of 2009 which stood disposed of on 16.11.2009 with a direction that the respondents would consider and hear the petitioner before proceeding further. Meanwhile, the departmental enquiry was conducted and it proceeded but ultimately the respondents themselves realized their mistake of having wrongly proceeded against the petitioner in a departmental proceeding. Subsequently, the respondents issued an order on 06.02.2013 (Annexure P-25) wherein they have said that the entire action was baseless and without authority of law and decided to drop the departmental enquiry without any further action.

4. When the matter is taken up, the petitioner who appears in person submits that since the issuance of notice to respondent no.3 and thereafter service of notice and hearing may take considerable time, he confines his relief only to the granting of interest on the belated release of leave encashment and gratuity amount and for compensation.
5. State counsel, on the other hand, opposing the petition to the relief sought for by the petitioner for grant of interest submits that rightly or wrongly the petitioner was subjected to departmental enquiry which was finally dropped on 06.02.2013. Thereafter within a short period of time, the leave encashment and gratuity amount has been released to the petitioner and therefore, the petitioner is not entitled for interest on the said amount. Thus, prayed for rejection of the writ petition.
6. Having heard the contentions put forth on either side and on perusal of record, the fact which stands admitted is that the petitioner stood

retired from service on 31.03.2009. Till the petitioner was in service, he was not subjected to any departmental enquiry with which the retiral dues could have been retained or withheld. The Service Rule is very clear that no disciplinary proceeding could have been initiated subsequent to the retirement of a Govt. Employee. The respondents from their own correspondence particularly Annexure P-25 have clearly reached to the conclusion that the petitioner had been wrongly proceeded in the departmental enquiry. As a result, he was unnecessarily subjected to harassment for a period of about 4 years and he was also deprived of his leave encashment and gratuity amount for no fault on his part.

7. What is also in favour of the petitioner is that the respondents had finally on 06.02.2013 voluntarily taken a decision not to proceed further with the departmental enquiry and had dropped the charges levelled against the petitioner. Thus, it is evident that the petitioner has been wrongly deprived of his money which he was entitled for immediately on his superannuation on 31.03.2009 and which was paid to the petitioner only in June and October, 2013.
8. So far as granting of interest on belated release of retiral dues is concerned, it would be relevant to refer to the judgment passed by this Court in WPS No. 6261/2016 decided on 27/02/2017 wherein this Court relying upon the decision of the Hon'ble Supreme Court in paragraphs 8, 9, 10 & 11 has held as under:-

“8. 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.

9. 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.

10. 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. Dharendra Pal Singh* [2017 (1) SCC 49].

11. Considering the authoritative decisions of Hon'ble Supreme Court in the 5 cases of D.D. Tewari and Dharendra 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."

9. The view of this Court further stands fortified from the recent decision of the Supreme Court in the case of ***State of Uttar Pradesh & Ors. v. Dharendra Pal Singh*** [2017 1 SCC 49] wherein again it has been reiterated by the Supreme Court that any delayed retiral dues and pensionary benefits paid by the department would carry interest.

10. Taking into consideration the aforesaid legal position as it stands this Court is of the opinion that the petitioner has made out a strong case for grant of interest on the belated release of his leave encashment and gratuity amount.

11. Accordingly, the writ petition to the aforesaid extent stands allowed and it is ordered that the petitioner shall be entitled for interest

@ 9% per annum on leave encashment and gratuity amount paid to him. The interest shall be payable from the date it fell due till the date it was released to the petitioner. Considering the fact that the petitioner retired from service w.e.f. 31.03.2009 and it is more than 10 years that he stood retired, it is expected that the respondents shall comply with directives given by this Court so far as the payment of interest on leave encashment and gratuity part is concerned at the earliest preferably within a period of 90 days from today, failing which, the interest rate would get enhanced from 9% to 12% per annum.

12. With the aforesaid observation the writ petition stands allowed.
13. At this juncture, the petitioner present in person submits that he has also prayed for grant of compensation for the torture and harassment that he has undergone during the intervening period. He referred to the decisions of Supreme Court in the case of S. Nambi Narayanan Vs. Siby Mathews & Others Etc. decided on 14.09.2018 in Civil Appeal Nos. 6637-6638 of 2018 and in the case of Devki Nandan Prasad Vs. State of Bihar and others decided on 22.04.1984 in Writ Petition No. 3053 of 1980.
14. Perusal of the entire facts and circumstances of the case, this Court does not find it an exceptional and rarest of rare cases made out by the petitioner for grant of compensation. The petitioner would not be entitled for compensation invoking the writ jurisdiction for the simple reason that the record shows that the petitioner on his superannuation had been timely granted his pension, PF and other

dues that he was otherwise entitled for on his superannuation except for leave encashment and gratuity amount. The fact that financial dues of the petitioner inclusive of pension had been timely released to him is sufficient to draw an inference that there does not appear to be a vindictive or malafide approach on the part of the respondents by which the petitioner could have been subjected to mental agony and harassment.

15. So far as the judgments which have been cited by the petitioner is concerned, the same had been passed under an entirely different contextual background and the facts of those cases cannot be equated with the facts of the present case particularly when the petitioner has been released his pension and PF dues without any delay.

16. In view of the same, the claim for grant of compensation by the petitioner would not be sustainable and the said prayer stands rejected.

**Sd/-
(P. Sam Koshy)
JUDGE**