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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 08.08.2019

% **W.P.(C.) No. 8630/2019**

UNION OF INDIA AND ANR.

..... Petitioners

Through: Mr. Arun Bhardwaj, Central
Government Standing Counsel.

Versus

D.K. BOSE

.....Respondent

Through: Mr. Ashim Shidla, Advocate

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

RAJNISH BHATNAGAR, J. (ORAL)

CM No. 35671/2019 & 35672/2019.

Exemption allowed, subject to all just exceptions.

The applications stands disposed of.

W.P.(C) No. 8630/2019 & CM No. 35670/2019

1. Issue notice. Counsel for the respondent accepts notice. We have heard learned counsels for the parties, perused the record, and we proceed to dispose of the petition at this stage itself.

2. The petitioners have filed the present Writ Petition with the prayer to issue an appropriate writ, order or direction quashing and setting aside the impugned order dated 09.05.2018 passed by the Central Administrative Tribunal in OA No. 1679/2016.

3. The relevant facts of the case are that the respondent retired from the post of Superintendent in the Central Excise Department on 30.06.2012 and just 8 days before his retirement, he was served with the Charge Sheet dated 22.06.2012. Following the Charge Sheet, he was subjected to disciplinary enquiry proceedings ultimately culminating into his exoneration vide order dated 28.01.2015 passed by the Commissioner, Central Excise Commissionerate, Delhi-I, New Delhi.

4. The retiral benefits had been paid belatedly to the respondent without any interest, so he preferred O.A. No. 1679/2016 before the Central Administrative Tribunal, Principal Bench which was allowed by the Tribunal vide impugned order dated 09.05.2018.

5. Aggrieved by the order dated 09.05.2018, passed by the Principal Bench, Central Administrative Tribunal, the petitioners have preferred the present writ petition.

6. We have heard the submissions of the Ld. counsels and given our due consideration to the matter.

7. It has been mainly argued by the counsel for the petitioners that because of issuance of charge sheet dated 22.06.2012, before retirement of the respondent on 30.06.2012, disciplinary proceedings were initiated against him in which he was exonerated vide order dated 28.01.2015 as a result of which his retiral benefits were released

belatedly, so the petitioners cannot be burdened with interest for the period spent in the inquiry proceedings.

8. On the other hand, it is urged by the counsel for the respondent that there is no infirmity in the impugned order dated 09.05.2018. It is further urged by him that the charge sheet dated 22.06.2012 had been malafidely issued against the respondent just 8 days before his retirement on 30.06.2012 in which ultimately the respondent was exonerated, therefore, the respondent is entitled to interest on the belated release of various components of his retiral benefits.

9. The relevant extracts of the impugned order dated 09.05.2018 are as follows :

“3. The Central Government has also issued OM No. 38/64/98-P&PW(F) dated 05.10.1999 wherein it is provided for payment of interest on the delayed payment of retiral benefits.

4. In the conspectus, I am of the view that the applicant is entitled for receiving interest at reasonable rate. I also take into consideration that in the normal course, it would have taken a maximum period of three months to crystallize various retiral claims of the applicant. Hence, I hold that the applicant is entitled for receiving interest for any delay that has occurred beyond three months of his retirement.

5. Accordingly, I allow this OA in the following terms:-

Respondents are directed to pay interest @ 8% on the delayed release of various components of retiral benefits beyond a period of three months from the date of his retirement, i.e. w.e.f. 01.10.2012. This shall be done within a period of two months from the date of receipt of a copy of this order.

10. In the instant case, the respondent was to superannuate on 30.06.2012 but he was served with a charge sheet on 22.06.2012 just 8 days before his superannuation.

11. It is also pertinent to mention here that the Enquiry Officer vide enquiry report dated 30.09.2013 returned the finding that charges leveled in the charge sheet against the respondent stand disproved and the matter was under the process of finalization. But no finalization of the proceedings was done. So the respondent approached the Tribunal by filing OA No. 3579/2012, which was disposed of vide order dated 28.02.2014, vide which the Tribunal directed the petitioners to finalize the departmental proceedings and pass appropriate orders at the earliest. But even after the passage of almost ten months from the date of the aforesaid order dated 28.02.2014, the petitioners did not finalize the disciplinary proceedings pending against the respondent. The respondent then approached the High Court by filing Writ Petition (C) No. 7587/2014. The High Court vide its order dated November 05, 2014 directed the petitioners to pass appropriate orders on the basis of the Inquiry report submitted to the Disciplinary Authority within four weeks from the date of the order. Only then on 28.01.2015, i.e. after more than 2 and a half months from the passing of the order dated November, 05, 2014 by the High Court, the respondent was exonerated of all the charges levelled in the charge sheet as a result of which his retiral benefits were released belatedly.

12. The above conduct of the petitioners appears to be most casual and is a classic case of victimization. By such a callous and

irresponsible conduct of the petitioners, the respondent's retiral benefits were released belatedly. Not only this, he had to undergo all the rigors of the enquiry which ultimately culminated into his exoneration. The respondent had to approach the Tribunal and High Court seeking finalization of his case which resulted not only in wastage of his time and money, rather it had caused undue harassment to a retired person.

13. Therefore, in view of the aforesaid position, we do not find any infirmity in the impugned order dated 09.05.2018, passed by the Central Administrative Tribunal, Principal Bench. The petition is, therefore, dismissed.

RAJNISH BHATNAGAR, J.

VIPIN SANGHI, J.

AUGUST 8, 2019

Sumant