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

Date of decision: 30/08/2019

\+ LPA No.670/2018

DALBIR SINGH SOHI ..... Appellant
Through: Ms. Geetanjali Mohan, Advocate.

versus

THE GENERAL MANAGER & ANR ..... Respondents
Through: Mr. Rajat Arora, Advocate.

CORAM:
HON'BLE MR. JUSTICE G.S. SISTANI
HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

G.S.SISTANI, J. (ORAL)

The decision of the learned Single Judge in an application for modification of order, filed post the pronouncement of the judgment on 17.08.2018, wherein interest on leave encashment and gratuity was declined, has led to filing of the present appeal.

2. The appellant had filed a writ petition before the learned Single Judge of this court seeking quashing of order dated 07.02.2000 read with corrigendum dated 06.06.2000, whereby the appellant stood dismissed from service, as well as of appellate order dated 18.08.2000 and review order dated 15.06.2002 made by respondent No. 1.

3. The Single Judge allowed the writ petition directing the respondents to accept the resignation of the appellant from the date he resigned i.e. 05.02.1992. In addition, the learned Single Judge was further pleased to direct respondent No.2/bank that should the appellant be entitled to any benefits consequent to the judgment, the same be disbursed within a period of two weeks from the receipt of a certified copy of the judgment.

4. Ms. Geetanjali Mohan, learned counsel for the appellant submits that taking into consideration the harassment which the appellant had to go through on account of the issuance of three charge-sheets, the learned Single Judge was pleased to award costs of Rs.50,000/- to be paid by the respondents.

5. Consequent to the judgment, which has attained finality as far as the bank is concerned, the appellant became entitled to gratuity, leave encashment and some component of provident fund. Ms. Mohan submits that since the amount had accrued to him as far back as in the year 1992 and the same was withheld by respondent No.2/bank illegally, which is apparent from the observations of the learned Single Judge, in all fairness the appellant should be entitled to interest.

6. Mr. Rajat Arora, learned counsel for the respondents however submits that the learned Single Judge in his wisdom had awarded heavy costs of Rs.50,000/- which would take care of the harassment, if any, meted-out to the petitioner and thus the learned Single Judge has rightly declined to grant any interest. Mr. Arora also submits that no prayer for interest was made in the writ petition.

7. We have heard counsel for the parties. We find force in the submissions made by Ms. Mohan. Learned Single Judge in paras 32, 33 and 36 of judgment dated 17.08.2018 observes as under:-

> *"32. To this Court, the manner in which the Bank has treated the petitioner is appalling, to say the least. The petitioner has obviously been hounded. Once the disciplinary authority had, vide order dated 7th October, 1993, exonerated the petitioner of the charge of unauthorized absence after 6th July, 1991, there could be no question of the same charge, forming subject matter of a fresh proceeding against the petitioner. It is also seen, from the order dated 7th October, 1993, that the petitioner's resignation has been accepted as a matter of record. In fact, the said order states that "since he has resigned there is no question of his further joining his duties." This is, ex facie, contrary to the observation, in the inquiry report dated 28th November, 2001 (supra), that the petitioner continued to be the employee of the Bank and was, therefore, required to submit his property returns.*
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> *33. That the entire exercise of issuance of the third chargesheet, as well as all proceedings following thereupon, was tainted by malice in law as well as on facts, and targeted at removing the petitioner from the establishment of the Bank, any which way, is also apparent from the summary nature of the inquiry report, dated 28th January, 2001, as well as the total non-application of mind, by the disciplinary authority, the appellate authority as well as the reviewing authority, to the petitioner's repeated references to the earlier proceedings against him, which had culminated in his exoneration.*
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> *xxxx xxxx xxxx*

> *36. Should the petitioner be entitled to any benefits consequent to this judgment, they shall be disbursed to the petitioner within a period of two weeks from the date of receipt, by the respondent, of a certified copy of this judgment."*
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> (Emphasis supplied)

8. It is evident therefore that the learned Single Judge was pained to observe that entire exercise of issuance of the third charge-sheet as well as all proceedings which followed were tainted by malice in law as well as on facts, and were targeted at removing the petitioner from the bank.

9. From the above it is evident that the delay in disbursal of legitimate dues to the petitioner was a result of needless and malicious proceedings. While the petitioner may have been compensated for the harassment he faced by awarding costs, that would not count as recompense for the delay in payment to him of his legitimate dues.

10. It is a settled legal principle that payment of interest must attend delay in payment of money due, unless there is good reason for the contrary. In the present case, there was no justification for not paying the petitioner his monetary dues. This principle has been consistently accepted by the courts. To cite but one judgment, in its decision in the case of ***Union of India vs. Justice S.S. Sandhawalia (Retd.) & Ors.*** reported as (1994) 2 SCC 240, where the claim *inter alia* was for interest on delayed payment of retiral benefits on account

of gratuity, leave encashment and reimbursement of medical charges, the Supreme Court observed as under :

> " ... *Since this payment was delayed by a year or so, the original petitioner claimed interest on the balance amount at 12% per annum, which has been rightly allowed by the High Court. Once it is established that an amount legally due to a party was not paid to it, the party responsible for withholding the same must pay interest at a rate considered reasonable by the Court. Therefore, we do not see any reason to interfere with the High Court's order directing payment of interest at 12 % per annum on the balance of the death – cum – retirement gratuity which was delayed by almost a year. We uphold this part of the High Court's order."*
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> (Emphasis Supplied)

11. Resultantly, we are of the view that in the present case the appellant be granted interest for the delayed payments. We accordingly grant interest @ 6% per annum simple, from 1992 till the date of payment on the monies owed, which as calculated, comes to Rs.1,65,171.44/-. This amount be paid within four weeks.

12. With the above directions, the appeal stands disposed of.

G.S.SISTANI, J

ANUP JAIRAM BHAMBHANI, J

AUGUST 30, 2019
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