

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 40 of 2014**

Dular Singh Sinha S/o Late Shri Alakhram Sinha Aged About 62 Years R/o
Jawahar Nagar, Durg, Police Station Durg, Civil And Revenue Distt. Durg
C.G., Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh And Ors S/o Through The Secretary, Water Resources Department, Mantralaya New Raipur, Police Station Rakhi, Civil And Revenue Distt. Raipur C.G., Chhattisgarh
2. The Accountant General, Office Of Accountant General, Post Mandhar Zero Point, Raipur, Police Station Raipur, Civil And Revenue Distt. Raipur C.G., District : Raipur, Chhattisgarh
3. The Joint Director Treasury, Accounts And Pension, Raipur Division, Police Station Raipur, Civil And Revenue Distt. Raipur C.G., District : Raipur, Chhattisgarh
4. The Executive Engineer, Kharkhara Mohadipat Project Division, Durg, Police Station Durg, Civil And Revenue Distt. Durg C.G., District : Durg, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Prateek Sharma, Advocate
For State	:	Mr. Rahul Jha, Dy. GA
For Res. No.2	:	Mr. Rajkumar Gupta, Advocate

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

24/11/2020

1. The present writ petition has been filed seeking for grant of interest on the delayed payment of retiral dues including the gratuity and another dues by the respondents.

2. Undisputed factual matrix of the case is that the petitioner was working as Sub Engineer under the respondents. After serving the department for a period of 35 years the petitioner stood retired from the service w.e.f. 31.01.2012. Though the petitioner should retire from January, 2012, however his retiral dues were not released by the department and there was no justifiable reason available with the respondents for withholding of the retiral dues of the petitioner in spite of the repeated representations being made and no response being received from the respondents, the petitioner ultimately had filed the writ petition WPS 1881/2013 and the said writ petition finally stood disposed of on 04.07.2013 whereby it was directed that case of the petitioner be scrutinized by the High Powered Committee constituted by the State Government so far as grant of retiral dues are concerned. The High Powered Committee after due scrutiny of the same found that the petitioner was in fact entitled for all the retiral dues payable to him and that Committee did not find any good reason why the retiral dues should be withheld or was delayed.
3. Pursuant to the Committee's report the department thereafter released the entire retiral dues payable to the petitioner on two dates i.e. an amount of Rs. 2,54,004 on 10.12.2013 and an amount of Rs. 8,37,949 on 13.12.2013. Thus, from the aforesaid admitted factual details there was a delay of more than 23 months on the part of the respondents in releasing the retiral dues to the petitioner and on account of which the petitioner faced huge financial stringencies and also faced difficulty to sustain himself and therefore the present writ petition has been filed seeking for grant of interest on that 23 months delay what was caused on the part of the respondents on the amount that was released on the 10 & 13 of December, 2013.
4. Counsel for the petitioner relied upon the judgment of the Supreme Court in the case of **Dr. Uma Agrawal v. State of U.P. and another, AIR 1999**

SC 1212 and in the case of **Vijay L. Mehrotra Vs. State of U.P. (2001) 9 SCC 687** and further the counsel for the petitioner relied upon the judgment of this Court in the case of **Kripashankar Tripathi Vs. State of Chhattisgarh & Others** decided on 28.03.2011.

5. The claim of the petitioner has been opposed by the State counsel on the ground that immediately after the petitioner having crossed the age of superannuation when his pension papers were being processed there was an objection raised by the Treasury Department in respect of the competency of some officer who has ordered for release of the increment on completion of 25 years of service and subsequently the stand of the State Government is that after disposal of the earlier round of litigation the matter was duly processed by the Committee authorized for the same and when the report of the Committee was received the payment payable to the petitioner was promptly released as such there is no lapse on the part of the State Government so far as release of the retiral dues are concerned and therefore the petitioner was not entitled for any interest as claimed for.
6. Having heard the contentions put forth on either side and on perusal of records the factual details as has been narrated in the preceding paragraphs is not in dispute. Admittedly the petitioner stood retired on 31.01.2012 and retiral dues initially was paid to the petitioner on 10.12.2013 & 13.12.2013 to the tune of Rs. 2,54,004 and Rs. 8,37,949 respectively. It is also not in dispute that except for the contentions of the petitioner being paid the increment by an officer not authorized as was the objection by the Treasury Department, there was no other ground available with the respondents for retention of the retiral dues. It is also not the case of the respondents that petitioner has been wrongly granted the said increment by the officer, except not being competent to release the same, which in other way means that petitioner in fact was entitled for the

increment. He has been paid increment timely and it only appears that it has been issued or released at the behest of an officer who was not otherwise authorized. This again cannot be a ground for retention of the retiral dues payable to the petitioner when the entitlement of the petitioner is not in dispute so far as the payment of said increment is concerned.

7. In a similar case where in respect of the claim of the grant of interest on the delayed payment of retiral dues, this Court in WPS 3369/2014 decided on 27.04.2018 in paragraph 14, 15 & 16 has held as under :-

“14. At this juncture, 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. Dhirendra 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 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."

15. 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. Dhirendra 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.

16. Given the aforesaid facts and circumstances of the case, this Court has no hesitation in reaching to the conclusion that in the present case also, there is an admitted inordinate delay on the part of the respondents in releasing gratuity amount to the petitioner and therefore the petitioner cannot be put to suffer loss for that intervening period of 13 years during which the petitioner was deprived of the gratuity amount."

8. If we take into consideration the judgment of the Supreme Court in the case of **Dhirendra Pal Singh (supra)** the Hon'ble Supreme Court on the question of delayed release of retiral dues and pensionary benefits in paragraph 9 & 10 have held as under :-

"9. [In State of Kerala and others v. M. Padmanabhan Nair](#)[1], this Court has held that pension and gratuity are no longer any bounty to be distributed by the Government to its employees on the retirement but are valuable rights in their hands, and any culpable delay in disbursement thereof must be visited with the penalty of payment of interest. In said case the Court approved 6% per annum interest on the amount of pension decreed by the trial court and affirmed by the High Court. As to the rate of interest on amount of

gratuity Section 7(3-A) of [Payment of Gratuity Act](#), 1972, it is provided that if the amount of gratuity payable is not paid by the employer within the period specified in sub-section (3), the employer shall pay, from the date on which gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long term deposits, as that Government may by notification specify. It further provides that no such interest shall be payable if the delay in payment is due to the fault of the employee, and the employer has obtained permission in writing from the controlling authority for the delayed payment on this ground. In the present case, there is no plea before us that the appellants had sought any permission in writing from the controlling authority. As to the delay on the part of employee, it has come on the record that he made representations, whereafter he filed a suit in respect of withheld amount of gratuity and pension. In [Y.K. Singla v. Punjab National Bank and others](#)[2], this Court, after discussing the issue relating to interest payable on the amount of gratuity not paid within time, directed that interest at the rate of 8% per annum shall be paid on the amount of gratuity.

10. In the light of law laid down by this Court, as above, and further considering the facts and circumstances of the case, we modify the impugned order passed by the High Court in respect of interest directed to be paid on the amount of withheld gratuity and pension. We direct that the appellants shall pay interest at the rate of 6% per annum on the unpaid amount of pension from the date it had fallen due and interest at the rate of 8% per annum on the unpaid amount of gratuity from the date of retirement of the employee.”

9. Given the aforesaid factual authoritative pronouncements by the Hon'ble Supreme Court as also by this Court in the recent past, this Court is of the opinion that present also is a fit case where petitioner is entitled for the

grant of interest for the delayed released of retiral dues payable to the petitioner. Accordingly, the writ petition stands allowed. It is ordered that petitioner shall be entitled for the payment of interest at the rate of 7% per annum from the date of retirement i.e. 31.01.2012 till the date of actual payment. For the purpose of convenience the date of actual payment be treated as 10.12.2013.

10. Respondents are directed to forthwith take steps for release of the aforementioned interest to the petitioner preferably within a period of 90 days from the date of receipt of copy of this order.

11. With the aforesaid directions, the writ petition stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit