

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 4678 of 2020

1. Surendra Singh S/o Sukhlal Singh Aged About 62 Years (Retired Senior Clerk), Chirimiri Area Underground, Bartunga Hills Nins, Chirimiri, District Korla, Chhattisgarh Permanent R/o Dindayal Upadhyay Nagar, Sector-2, Mig-744, Near Gol Chowk, Police Station Dindayal, District Raipur, Chhattisgarh.

---Petitioner(s)

Versus

1. South Eastern Coalfields Limited Through Chief General Manager, S.E.C.L. Chirimiri Area District Korla, Chhattisgarh.
2. Personal Manager Chirimiri Colliery (Underground Mines) S.E.C.L. Chirimiri Area District Korla, Chhattisgarh.
3. Senior Mines Manager Bartunga Hills, Chirimiri Colliery (Underground Mines) S.E.C.L. Chirimiri Area District Korla, Chhattisgarh.
4. Deputy Mines Manager Bartunga Hills, Chirimiri Colliery (Underground Mines) S.E.C.L. Chirimiri Area District Korla, Chhattisgarh.

---Respondents

For Petitioner	:	Shri Sanjeev Verma, Advocate.
For Respondents	:	Shri Pankaj Agrawal, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

03.12.2020

The grievance of the petitioner in the present writ petition is the fact that inspite of the petitioner having retired from service w.e.f. 31.07.2018 his retiral dues till date has not been released.

2. The counsel for the respondents submits that he has instructions to state that some administrative delay took place in processing the dues of the petitioner and that the entire dues shall be released within a short period of time.

3. The counsel for the petitioner at this juncture submits that since there is a delay about more than two years in the releasing the retiral dues the petitioner had to face great hardship in meeting both ends after retirement and therefore he should be suitably compensated by payment of interest on the said amount.

4. The counsel for the respondents referred to an NOC provided by the petitioner and submits that NOC was last provided by the petitioner only on

10.07.2019 after vacating the official residence and it is only thereafter that the petitioner became entitled for the release of his retiral dues. Therefore this court may not grant any interest on the said amount. The entire retiral dues shall be definitely paid within 10 days.

5. 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 31.07.2018 and till date retiral dues including gratuity, unpaid salary, bonus, EL which the petitioner was entitled for have not been provided to the petitioner.

6. 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. 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."

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. 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.

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."

7. If we take into consideration the judgment of the Supreme Court in the case of Dharendra 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.”

8. Keeping in view the aforesaid judicial pronouncement and also taking into consideration the factual matrix of the present case, that of the petitioner having retired from service w.e.f. 31.07.2018 and till date retiral dues of the petitioner has not finalized including gratuity, unpaid salary, bonus, EL etc. which the petitioner was entitled for, this court is of the opinion that the writ petition deserves to be and is accordingly allowed and the respondents are directed to ensure that the entire retiral dues as also unpaid dues like salary, perks, bonus, EL etc. be calculated and paid at the earliest within a period of 60 days from the date of receipt of copy of this order. The entire dues payable to the petitioner shall also carry interest @ 7 percent per annum from the date the petitioner retired from service till the actual date of payment.

9. The writ petition accordingly stands allowed.

Sd/-
(P. Sam Koshy)
Judge

inder