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

\+ **W.P.(C) 7511/2017 and CM APPL. 30983/2017 (stay)**

GOVT. OF NCT DELHI & ORS ..... Petitioners

Through: Mr. Gaurav Dhingra, Advocate.

versus

R.K. ANAND ..... Respondent

Through: None.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

O R D E R

% **09.01.2020**

1. A detailed order was passed by this Court on 28th August, 2017 in the present petition, which reads as under:-

> "The petitioner has preferred to present writ petition to assail the order dated 20.03.2017 passed by the Tribunal in OA No.2902/2015. The Tribunal has allowed the said original application and issued the direction to the petitioner to pay interest to the respondent at the rate 12% leave encashment and commutation amount from the date it was due till the actual date of payment is made to the respondent and also the interest on the gratuity amount due to the respondent @ 12% per annum.
>
> The facts shows that the respondent was charge-sheeted on 30.11.2004, he superannuated from service on the same day. The said charges were dropped on 25.08.2014 that is ten years later. Even during this period, the respondent was not paid either his gratuity or the leave encashment amount or pension/commutation of pension. In these circumstances, the

respondent approached the Tribunal to seek payment of interest on account of delayed payment of the aforesaid component due to him. In fact, only after he had approached the Tribunal earlier vide OA No. 3226/2013 wherein the Tribunal passed orders on 27.10.2014 for release of retiral dues. After the Tribunal passed an order dated 27.10.2014, the respondent was released the sanctioned amount of leave encashment amount of Rs.1,83,830/- vide order dated 27.01.2015, a gratuity of Rs.3,03,320/- with interest component of Rs.2,48,976/- vide order dated 16.06.2015 and commutation of pension of Rs.2,52,410/- vide order dated 19.02.2015. Thus, it would be seen that while interest was granted to the respondent on the gratuity amount due to him, no interest was paid on delayed release of leave encashment and commutation of pension.

Learned counsel for the petitioner states that the interest on gratuity was calculated at the rate applicable to GPF in terms of the decision of the Government of India taken in pursuance of the Rule 68 of CCS of (Pension) Rules. In the aforesaid circumstances, we find no justification to interfere with the impugned order which is premised on decisions rendered on **Vijay L. Mehrotra vs. State of Uttar Pradesh**, (2001) 9 SCC 687. However, since learned counsel for the petitioner submits that so far as the interest payable on delayed gratuity is concerned, there is a direction issued by the Government under Rule 68 of the CCS (Pension) Rules to pay interest at the rate applicable to GPF deposit.

Limited only to the aspect, issue notice to the respondent, returnable on 08.12.2017. In the meantime, the petitioner is directed to release the amount of interest delayed on the leave encashment and commutation of pension, in terms of the order of the Tribunal, within four weeks.

Dasti."

2. It is seen from the above order that notice was issued, limited to the

question of the rate of interest payable on the delayed payment of the gratuity amount.

3. This Court has perused the judgment in ***Vijay L. Mehrotra v. State of Uttar Pradesh (2001) 9 SCC 687.*** There, the Supreme Court after noticing that there was inordinate delay in the State of Uttar Pradesh granting the Petitioner therein his retiral benefits, directed payment of simple interest at 18% per annum on the amount that was due to the Petitioner.

4. In the present case, the CAT has, after referring to the above judgment in ***Vijay Mehrotra*** *(supra)* as well as Rule 68 of the Central Civil Service (Pension) Rules, directed payment of interest for the period of delay in releasing the gratuity to the Respondent at 12% simple interest per annum. Learned counsel for the Petitioner sought to distinguish the judgment in ***Vijay Mehrotra*** *(supra)* on the ground that in the present case the delay was not attributable to the Petitioners.

5. The Court is not able to agree with the above submission. The facts speak for themselves. On the last date of his retirement, on 30th November 2004, the Respondent was served with a charge sheet. Ten years thereafter, in 2014 that the charges were dropped with the Petitioners being unable to trace the documents pertaining to the Respondent's case. Clearly, therefore, the delay in releasing the gratuity that became due to the Respondent was not on account of any omission on his part, but attributable entirely to the Petitioners. In the circumstances, the Court sees no reason to interfere with the impugned order of the CAT.

6. The petition is dismissed. The pending application is also disposed of.

S. MURALIDHAR, J.

TALWANT SINGH, J.

JANUARY 09, 2020
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