

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 4272 of 2021**

Smt. Shanti Pandey W/o Shri N. K. Pandey, Aged About 60 Years, R/o
290 Suncity Lalbagh, Jagdalpur, District Bastar, Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Public Works Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Raipur, District Raipur, Chhattisgarh
2. The Engineer In Chief, Public Works Department, North Block, Sector 19, Nirman Bhawan, Naya Raipur, District Raipur, Chhattisgarh
3. The Chief Engineer, Public Works Department, Bastar Region, Jagdalpur, District Bastar, Chhattisgarh
4. The Superintending Engineer, Public Works Department, Bastar Division, Jagdalpur, District Bastar, Chhattisgarh
5. The Executive Engineer, Public Works Department, North Bastar Division No. 01, Jagdalpur, District Bastar, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Praful N. Bharat, Sr. Advocate with Mr. Harshal Chouhan, Advocate
For State	:	Mr. Kunal Das, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****18.08.2021**

1. The present writ petition has been filed for grant of interest on the delayed payment of post retiral benefits including pensionary benefits.
2. The facts of the case are that the petitioner herein was working under the respondents as an Assistant Draftsman. The petitioner reached the age of superannuation on 29.02.2016. The grievance of petitioner seems to be the delay in payment of retiral dues which has been paid to

petitioner beyond a period of 4 years from the date of retirement. According to the petitioner, the post retiral benefits have all been released to her on the following dates, the details of which are being reproduced hereinunder:

Sl. No.	Particular	Amount	Due date	Paid on
1.	Pension	@ Rs.23050/- per month	01.03.16	04.07.20
2.	Gratuity	Rs.760650/-	01.03.16	04.07.20
3.	Leave encashment	i. Rs.316080/- ii. Rs.52720/-	01.03.16	i. 21.01.20 ii. 12.06.20
4.	Group Insurance	Rs.56270/-	01.03.16	09.07.20
5.	Family Benefit	Rs.43365/-	01.03.16	09.07.2

3. Apparently from the given dates it reflects that the payment has been made beyond a period of 4 years. From perusal of the pleadings it appears that at the time of retirement, there was some disciplinary proceedings pending against the petitioner. However, the record shows that the said disciplinary proceedings also had since culminated in the year 2016 itself and the petitioner was inflicted with a minor punishment of censure vide order dated 27.05.2016.
4. According to the petitioner, apart from the said disciplinary proceeding, she has not been subjected to any other disciplinary proceeding nor any other criminal case was pending on account of which the retiral benefits could have been delayed. It is the further contention of petitioner that the said disciplinary proceedings concluded on 27.05.2016. If the said date is taken into consideration, even then the retiral dues have been paid beyond a period of 4 years from the said date and during all this period, the petitioner has been deprived of the retiral dues and she has faced great hardship in maintaining herself and her dependents. Thus,

the petitioner prays for being suitably compensated for the delayed payment of the post retiral benefits.

5. So far as the issue of granting of interest on the delayed releasing of retiral dues is concerned, the law is by now well settled by a catena of decisions both by the Hon'ble Supreme Court as also by this Court. 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."

6. 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.”

7. Given the aforesaid legal position as it stands and also taking into consideration the fact that there does not seem to be any plausible and justifiable reason for withholding the retiral benefits of petitioner beyond 27.05.2016, this Court is of the opinion that it is a fit case where the petitioner has to be suitably compensated for the agony and sufferings

that she has suffered during the said period awaiting the benefits of retiral benefits.

8. Accordingly, it is ordered that the petitioner should be paid interest on the entire retiral dues, upon which interest has not been calculated at the time of releasing of the same, @ 7% per annum from 27.05.2016 till the date of actual payment. Let this payment of interest on the retiral dues be calculated and paid at the earliest, preferably within an outer limit of 60 days from the date of receipt of a copy of this order.
9. The writ petition to that extent stands allowed and disposed of.

**Sd/-
(P. Sam Koshy)
Judge**

Khatai