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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No.350 of 2021**

B. K. Gupta S/o Late B.N. Gupta, Aged About 76 Years Retired Assistant Manager / Pratinuyukti General Manager, Zila Sahakari Krishi Aur Gramin Vikas Bank Maryadit, Ambikapur, R/o. Behind Amar Petrol Pump, Ambikapur, Tahsil. Ambikapur, District Surguja, Chhattisgarh

---- Appellant**Versus**

1. Chhattisgarh Rajya Sahkari Krishi Aur Gramin Vikas Bank Maryadit Through Its Managing Director, Chhattisgarh Rajya Sahakari Krishi Aur Gramin Vikas Bank Maryadit, B-Block, 1st Floor, Rda Building, Sharda Chowk, Raipur, Chhattisgarh
2. Assistant Manager (Accounts) Chhattisgarh Rajya Sahakari Krishi Aur Gramin Vikas Bank Maryadit, B-Block, 1st Floor, Rda Building, Sharda Chowk, Raipur, Chhattisgarh
3. Regional Commissioner, Regional Provident Fund Office, Navbharat Complex, Rajbandha Maidan, Tahsil And District, Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
4. Chhattisgarh Rajya Sahakari Bank Maryadit, Raipur Through Its Managing Director, Chhattisgarh Rajya Sahakari Bank Maryadit Raipur, Sahkar Bhawan, Plot No. 7, Sector-24, Naya Raipur, Atal Nagar, Raipur, Chhattisgarh - 492002

---- Respondents

(Cause-title taken from Case Information System)

For Appellant : Ms. Priyanka Mehta, Advocate

For Respondents : Mr. Jitendra Shrivastava, Advocate

Hon'ble Shri Arup Kumar Goswami, Chief Justice**Hon'ble Shri Goutam Bhaduri, Judge****Judgment on Board****Per Arup Kumar Goswami, Chief Justice****10.11.2021**

Heard Ms. Priyanka Mehta, learned counsel for the appellant. Also heard Mr. Jitendra Shrivastava, learned counsel appearing for the respondents.

2. This writ appeal is preferred against an order dated 16.08.2021 passed by the learned Single Judge in Writ Petition (S) No.369 of 2009, the operative portion of which, reads as under :

7. In view of the aforesaid order, the amount of gratuity and the amount of leave encashment after adjusting ₹ 65,918-40 ps. could have been paid within 4 weeks from the date of order i.e. 3-7-2008, on or before 1-8-2008, however, gratuity has been paid on 17-10-2008 and leave encashment has been paid on 6-9-2008. Therefore, the petitioner would only be entitled for interest on the said amount of gratuity from 1-8-2008 to 17-10-2008 and on the amount of leave encashment from 1-8-2008 to 6-9-2008 at the rate of 10% per annum on the said amount. Respondent No.4 Bank is directed to calculate the said interest and disburse the same to the petitioner within three weeks from today.”

3. The writ petitioner, while working as an Assistant Manager of Rajya Sahkari Land Development Bank (Apex Land Development, Bhopal) retired from service on 31.10.2003 on attaining the age of superannuation. For non-payment of his retiral benefits, he had approached this Court by filing a writ petition, registered as Writ Petition No.744 of 2005, seeking a writ of mandamus for release of his retiral dues. During the pendency of the writ petition, an amount of Rs.7,309/- towards Employee Benefit Fund, an amount of Rs.24,525/- on account of Group Insurance and an amount of Rs.1,93,135/- on account of Pension Provident Fund was released on 25.06.2005, 09.09.2005 and 23.02.2006, respectively.

4. It is relevant to note that a disciplinary proceeding was pending when the writ petitioner retired from service. In the inquiry, a sum of Rs.65,918.40 was

found recoverable from the petitioner.

This Court disposed of the Writ Petition No.744 of 2005 on 03.07.2008, observing as follows :

“3. Shri Agrawal further submits that the enquiry has been concluded. A sum of Rs. 65,918.40 is found recoverable from the petitioner (Annexure P/6).

4. Shri Khetrapal, learned counsel appearing for the petitioner submits that the petitioner is agreeable for deduction of a sum of Rs. 65,918.40 and the remaining amount may be released to the petitioner, as early as possible. Shri Agrawal submits that the balance amount shall be released to the petitioner within a period of four weeks.”

5. Subsequent to disposal of the aforesaid writ petition, a sum of Rs.1,64,464/- was paid on 09.09.2008 towards Leave Encashment and a sum of Rs.3,42,484/- was paid on 17.10.2008 on account of Gratuity.

6. The present writ petition, out of which this writ appeal arises, was filed, essentially, praying for a direction to respondent No.3 to pay interest @ 18% along with compound interest on the delayed payment of retiral dues as well as leave encashment and gratuity from the date they became due till the date of actual payment as well as to pay interest along with compound interest on delayed payment of 10% of the provident fund from the date it became due till the date of actual payment.

7. It is to be noticed that in the earlier writ petition registered as Writ Petition No.744 of 2015, the petitioner had made, amongst others, the following prayer :

7.3 That further a writ in the nature of mandamus be issued directing the respondent No.3 to pay the amount of Group Insurance Claim, Gratuity, Leave encashment with interest of 18%”

8. A perusal of the order passed in the aforesaid writ petition will go to show that there was no direction for payment of interest claimed by the petitioner. It has to be understood that prayer for grant of interest must be deemed to have been denied, as what is claimed but not granted necessarily results in denial of relief in judicial or quasi-judicial proceedings. Therefore, by filing a subsequent writ petition, the petitioner cannot re-agitate the issue, which has attained finality.

9. In that view of the matter, we find that no case is made out for interference with the order of the learned Single Judge and therefore, finding no merit, the writ appeal is dismissed. No costs.

Sd/-
(Arup Kumar Goswami)
Chief Justice

Sd/-
(Goutam Bhaduri)
Judge