ORISSA HIGH COURT: CUTTACK

W.P.(C) NO. 23333 OF 2020

In the matter of an application under Articles 226 and 227 of the Constitution of India.

AFR

Debendranath Mohanty	.....	Petitioner

-Versus-

Union of India and others	.....	Opp. Parties

For Petitioner	:	M/s. Nirmal Ranjan Routray and T.K. Choudhury, Advocates
For Opp. Parties	:	Mr. K.C. Kar, Senior Panel Counsel for the Central Govt.

P R E S E N T:

THE HONOURABLE DR. JUSTICE B.R.SARANGI
AND
THE HON'BLE MR. JUSTICE V. NARASINGH

Date of Hearing: 11.07.2022::Date of Judgment: 26.07.2022

DR. B.R. SARANGI, J. The Petitioner, who was working under the then South Eastern Railways, has filed this Writ Petition seeking to quash the Order dated 18.05.2020 passed in O.A. No. 260/00869 of 2016, whereby the Central Administrative Tribunal, Cuttack Bench, Cuttack has denied him interest on the delayed payment of retirement benefits, and to issue direction to the Opposite Parties to grant interest @ 12% per annum on such retirement financial benefits.

2. The factual matrix of the case, in brief, is that the Petitioner joined in the Railway service on 01.01.1983 and was confirmed on 09.01.1991 under the then South Eastern Railways. The Petitioner was then empanelled for promotion/regularization as Junior Clerk, after he was selected on the basis of written examination, vide Order dated 22/23.01.1998. Consequently, he was regularized as Junior Clerk with effect from 01.02.1992 and promoted to the post of Senior Clerk on ad hoc basis with effect from 01.02.1994, vide Office Order dated 11.06.1998. The Deputy Chief Personnel Officer (Construction), South Eastern Railways, vide Office Order dated 24.07.2002, revised the date of promotion of the Petitioner as Senior Clerk and directed for recovery of the promotional benefits. Aggrieved thereby, the Petitioner approached the Central Administrative Tribunal, Cuttack Bench, Cuttack, by filing O.A. No. 691 of 2002. The said

Original Application was disposed of, vide order dated 08.02.2008, by quashing the order of recovery and directing the authorities to maintain the Office Order granting promotion to the petitioner intact. The Opposite Parties filed W.P.(C) No. 12691 of 2008 challenging the order dated 08.02.2008 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No. 691 of 2002. During pendency of the said Writ Petition before this Court, the Petitioner retired from service on 28.02.2009. The Opposite Parties, instead of releasing the retirement benefits admissible to the Petitioner, withheld the same along with productive linked bonus for the year 2008-09 and benefit of MACP as well as the increment of Grade Pay, as due and admissible after 01.01.2006, on the ground of pendency of the Writ Petition before this Court.

2.1 This Court, vide order dated 09.01.2014, dismissed the Writ Petition and confirmed the order dated 08.02.2008 passed by the Tribunal. As a consequence thereof, the Opposite Parties, vide order dated

02.06.2014, took a decision to re-fix the pay of the Petitioner from the date he worked as Senior Clerk and for payment of retirement benefits. The same was released on different dates starting from 14.08.2014 to 15.04.2015. Aggrieved by the delayed payment of his retiral financial benefits, the Petitioner submitted a representation on 02.11.2015 before the Opposite Party No.4 requesting him to grant interest for such delayed payment by seven years. Since no action was taken on his representation, the Petitioner filed O.A. No. 241 of 2016 before the Tribunal claiming interest on the amount due towards retirement benefits for the period from 01.03.2009 to 15.04.2015, i.e. the date when final payment was made to him, and for release of productive linked bonus for the year 2008-09, the benefits of MACP w.e.f. 01.09.2008 and also the increments as due and admissible to him in accordance with law. The said Original Application was disposed of at the stage of admission with a direction to Opposite Party No.4 to consider the representation of the Petitioner as per Rules. Opposite Party No.4, vide letter dated 30/31.05.2016, intimated to the Petitioner that his representation dated 02.11.2015 has not been received by them. Accordingly, the Petitioner submitted another representation on 20.06.2016, which was rejected by Opposite Party No.4, vide order dated 23/26.09.2016, stating that the claim of the Petitioner for payment of interest on delayed dues was due to pendency of the matter before the Court and not due to the administrative lapses. Aggrieved by the order dated 23/26.09.2016 refusing to grant interest on the delayed payment of retirement benefits, the Petitioner approached the Tribunal by filing O.A. No.260/00869 of 2016.

3. Pursuant to the notice issued by the Tribunal, the Opposite Parties filed their Counter Affidavit stating inter alia that the retirement benefits to the Petitioner had been withheld owing to pendency of the Writ Petition before this Court and not because of administrative lapses. During pendency of the Writ Petition, neither gratuity nor final pension could be sanctioned in favour of the Petitioner due to stipulation in Rules-10(1)(c) and

10(2) of the Railway Services (Pension) Rules, 1993. The claim of productive linked bonus for the financial year 2008-09 was paid to the Petitioner on 12.03.2018. As regards the MACP claimed, the Petitioner had joined in the post of Khalasi (equivalent Grade Pay of Rs.1800/-), then availed regular promotion to the post of Junior Clerk (equivalent Grade Pay Rs.1900/-) and thereafter availed one ad hoc promotion to post of Senior Clerk (equivalent Grade Pay of Rs.2800/-), and since the Petitioner retired in equivalent Grade Pay of Rs.2800/-, he was eventually drawing higher Grade Pay than what he would have availed had he got third MACP benefit. Therefore, he is not entitled to get any further MACP benefits. Accordingly, relying upon Rule-10 of Railway Services (Pension) Rules, 1993, the Tribunal on consideration of the rival claims, opined that the delay being not attributable to the Railways Administration, the Petitioner is not entitled to interest on the delayed payment of retirement benefits. Accordingly, the Tribunal, by the impugned order dated 18.05.2020, dismissed the

Original Application, which is under challenge in the present Writ Petition.

4. Mr. N. R. Routray, learned Counsel appearing for the Petitioner, contended that issuance of the Office Order dated 24.07.2002 was a wrong decision by the Opposite Parties, for which series of litigations were filed not only before the Tribunal but also before this Court. In view of the order passed by the Tribunal in O.A.No.691 of 2002 and by this Court in W.P.(C) No.12691 of 2008, the decision of the Authorities taken on 24.07.2002, being adjudged to be fallacious, such wrong can safely be attributable to the Opposite Parties and, therefore, the resultant delay in releasing the retirement benefits admissible to the petitioner. Hence, the Tribunal has erroneously appreciated the fact and denied the interest legitimately admissible to the Petitioner. As a consequence thereof, the order impugned cannot be sustained.

4.1 It is further contended that once the Tribunal disposed of O.A. No. 691 of 2002, vide order dated

08.02.2008, by holding that the order dated 24.07.2002 was bad, it is the opposite parties who had filed W.P.(C) No. 12691 of 2008 challenging the order of the Tribunal, which took six years for disposal and after disposal of the said Writ Petition on 09.01.2014, the Opposite Parties issued Office Order dated 02.06.2014 for final settlement of retirement benefits. Thereby, the delay is fully attributable to the Opposite Parties and, as such, the Petitioner is entitled to get interest on the delayed release of the retirement benefits. Under such circumstance, the Tribunal has committed gross error apparent on the face of record by denying the claim made by the petitioner, vide order impugned dated 18.05.2020, which cannot be sustained in the eye of law and is liable to be quashed.

4.2 To substantiate his contention, learned counsel appearing the Petitioner has relied upon the judgments of the apex Court in the case of ***Dr. Uma Agrawal v. State of U.P.***, (1999) 3 SCC 438, ***S.K. Dua v. State of Haryana***, (2008) 3 SCC 44 and ***Union of India v. C. Girija*** (C.A. No. 1577 of 2019, decided on 13.02.2019)

5. Mr. K.C. Kar, learned Senior Panel Central Government Counsel appearing for the Opposite Party-Railway Authorities, while justifying the order passed by the Tribunal in rejecting the claim of the Petitioner for grant of interest on delayed payment of retirement dues, referring to the Counter Affidavit, vehemently contended that in view of the provisions contained in Rule-10 of the Railway Services (Pension) Rules, 1993 the Petitioner is not entitled to get the interest for the delayed payment of retirement dues. It is further contended that the retirement benefit of the Petitioner was withheld at the time of his retirement owing to pendency of the Writ Petition before this Court, the same was not due to any administrative lapses by the Opposite Parties. Furthermore, neither the gratuity amount nor final pension could be sanctioned in favour of the Petitioner in accordance with the stipulations made in Rule-10 (1)(c) and 10 (2) of Chapter-II of the Railway Services (Pension) Rules, 1993. Therefore, the Tribunal is well justified in passing the order impugned, which does not warrant interference by this Court at this stage. To substantiate

his contention, he has relied upon the decisions of the apex Court in the cases of ***State of Haryana v. D. L. Uppal***, (1996) 2 SCC 344, and ***Bank of India v. K. Mohandas***, (2009) 5 SCC 313.

6. This Court heard Mr. N.R. Routray, learned Counsel appearing for the Petitioner and Mr. K.C. Kar, learned Senior Panel Counsel for the Central Government appearing for the Opposite Party-Railways by hybrid mode, and perused the records. Pleadings having been exchanged between the parties, with the consent of learned Counsel for the parties this Writ Petition is being disposed of finally at the stage of admission.

7. In the backdrop of the factual matrix and rival contentions raised by learned counsels appearing for both parties, the sole question rests for adjudication in this case is as to whether the Petitioner is entitled to get interest for the delayed payment of his retirement dues and if it is answered in affirmative at what rate?

8. For an effective adjudication of the above question, it is of relevance to go through Rule-10 and Rule-87 of the Railway Services (Pension) Rules, 1993, which are extracted hereunder:-

*"10. **Provisional Pension where departmental or judicial proceedings may be pending**.*

(1) (a) In respect of a railway servant referred to in sub-rule (3) of Rule 9, the Accounts Officer shall authorise the provisional pension not exceeding the maximum pension which would have been admissible on the bases of qualifying service up to the date of retirement of the railway servant or if he was under suspension on the date of retirement, upto the date immediately preceding the date on which he was placed under suspension.

(b) The Provisional pension shall be authorised by the Accounts Officer during the period commencing from the date of retirement upto and including the date on which, after the conclusion of departmental or judicial proceedings, final orders are passed by the competent authority.

(c) No gratuity shall be paid to the railway servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon; provided that where departmental proceedings have been instituted under the provisions of the Railway Servants Discipline and Appeal Rules, 1968, for imposing any of the penalties specified in clauses (i), (ii), (iii a) and (iv) of rule 6 of the said rules, the payment of gratuity shall be authorised to be paid to the railway servant.

(2) Payment of provisional pension made under sub-rule (1) shall be adjusted against final retirement benefits sanctioned to such railway servant upon conclusion of such proceedings but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or the pension is

reduced or withheld either permanently or for a specified period."

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87. ***Interest on delayed payment of gratuity: -*** *(1) In all cases where the payment of gratuity has been authorised later than the date when its payment becomes due, including the cases of retirement otherwise than on superannuation, and it is clearly established that the delay in payment was attributable to administrative reasons or lapses, interest shall be paid at the rate applicable to State Railway Provident Fund amount in accordance with the instructions issued from time to time:*

Provided that the delay in payment was not caused on account of failure on the part of the railway servant to comply with the procedure laid down by the Government for processing his pension papers.

(Authority: File No. 2015/F(E)III/1(1)/4 dt.17.06.16 ....RB NO.70

*(2) Every case of delayed payment of gratuity shall be considered by the General Manager or Administrative Head of the Railway Unit, as the case may be, and where the said General Manager or Administrative Head is satisfied that the delay in the payment of gratuity was caused on account of administrative reasons or lapse, he shall order for arranging the payment of interest. The powers to pass order for payment of interest on delayed payment of death-cum-retirement gratuity shall rest with General Manager or Administrative Head of the Railway Unit and shall not be delegated to any lower authority***.*** *(Authority: File No. 2015/F(E)III/1(1)/4 dt.17.06.16 ....RB NO.70*

(3) In all cases where the payment of interest has been ordered, the railway shall fix the responsibility and take disciplinary action against the railway servant or servants concerned who are found responsible for the delay in the payment of gratuity on account of administrative lapses.(Authority: File No. 2015/F(E)III/1(1)/4 dt.17.06.16 ....RB NO.70

(4) If as a result of Government's decision taken subsequent to the retirement of a railway servant, the amount of gratuity already paid on his retirement is enhanced on account of –

(a) grant of emoluments higher than the emoluments on which gratuity already paid was determined, or

(b) liberalisation in the provisions of these rules from a date prior to the date of retirement of the railway servant concerned, no interest on the arrears of gratuity shall be paid.

(5) Gratuity becomes due immediately on retirement and in case of a railway servant dying in service, action for finalising his pension and death-cum-retirement gratuity shall be paid."

9. The very nomenclature of Rule-10 of the Railway Services (Pension) Rules, 1993 denotes that the said Rule deals with the procedure for grant of Provisional Pension where departmental or judicial proceeding is pending. In the instant case, admittedly, no departmental proceeding was pending against the Petitioner. So far as judicial proceeding is concerned, it means a proceeding in which judicial functions are being exercised. In a general term, for proceeding in Courts; for the course authorized to be taken in various cases to secure the determination of controversy: to obtain the enforcement of a right or the redress or prevention of a wrong. In ***Virendra Kumar v.***

State of Punjab, AIR 1956 SC 153, it has been held that in a judicial proceeding, it is to decide the matter in a judicial manner. It involves that the parties are entitled to be heard in person in support of it. It also imports an obligation on the part of the Authority to decide the matter on a consideration of evidence adduced in accordance with law.

10. There is no dispute that the Deputy Chief Personnel Officer (Construction), South Eastern Railways passed an order on 24.07.2002 revising the date of promotion of the Petitioner as Senior Clerk with a further direction to recover the promotional benefits. Aggrieved by that order, the Petitioner approached the Central Administrative Tribunal by filing O.A. No. 691 of 2002, which was disposed of vide order dated 08.02.2008 and the Tribunal, while quashing the order of recovery, directed to maintain the Office Order granting promotion of the petitioner in tact. As against the said Order of the Tribunal, the Opposite Parties filed W.P.(C) no. 12691 of 2008, which was dismissed on 09.1.2014 by this Court.

But, in the meantime, the Petitioner had retired from service with effect from 28.02.2009. Even after retirement on 28.02.2009, the Petitioner was not paid his retirement benefits, along with other benefits, on the plea of pendency of Writ Petition before this Court. The wrong, which was committed by the authorities in revising the date of promotion of the Petitioner, vide order dated 24.07.2002, had been set aside by the Tribunal on 08.02.2008. It is the Opposite Parties, who had filed Writ Petition before this Court bearing W.P.(C) No. 12691 of 2008. Thus, it can be said that the delay is attributable to the Opposite Parties. Reason being, once the wrong order was set aside by the Tribunal, the Opposite Parties preferred Writ Petition and at their behest the matter was pending before this Court, without any interim order being passed granting stay of the operation of the order of the Tribunal, and the same was ultimately dismissed on 09.01.2014. As such, the alleged pendency of Judicial Proceeding, as provided in Rule-10 of the Railway Services (Pension) Rules, 1993, is of no assistance to the Opposite Parties, as because here in this case the pendency of Judicial Proceeding, as contemplated, was not because of the Petitioner but because of the Opposite Parties. In addition to the same, since ultimately the Writ Petition was dismissed and against such order of dismissal the Opposite Parties did not approach the higher forum, thereby they accepted that they committed a wrong by passing the order dated 24.07.2002 revising the order of promotion of the Petitioner as Senior Clerk. If that wrong order passed by the Opposite Parties was rectified by virtue of the order dated 08.02.2008 passed by the Tribunal in O.A. No. 691 of 2002 and while disposing of the Writ Petition bearing W.P.(C) No. 12691 of 2008 this Court had confirmed the order of the Tribunal, for the delay in payment of retirement financial dues owing to alleged pendency of Judicial Proceeding, the Petitioner is entitled to get interest thereon, as such delay is entirely attributable to the Opposite Parties, as already noted.

11. In Common Parlance, interest means rate of interest and includes the return to be made over and

above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise. In ***Associated Cement Company Ltd. v. Commercial Tax Officer***, (1981) 4 SCC 578, it has been held that an "interest" is ordinarily claimed from an assessee who withheld payment of any tax payable by him and it is always calculated at the prescribed rate on the basis of the actual amount of tax withheld and the extent of delay in paying it. Such interest is compensatory in character and not penal. Therefore, here the interest is compensation to be paid to the Petitioner for withholding the amount, which he is otherwise entitled to get under law. Therefore, mere pendency of a judicial proceeding, as contended in Rule-10 of Railway Service (Pension) Rules, 1993 cannot come to the rescue of the Opposite Parties.

12. In ***D.L. Uppal*** (supra), the apex Court was considering as to when the dispute with regard to computation of pension is pending, how the liability could be fastened with interest for non-fixation of the pension and it was held that entitlement is to be computed on the

basis of the last drawn scale of pay as found by the High Court which would be adjusted after the fixation of pay. Since there is a dispute with regard to fixation of pay, the apex Court held that High Court's direction to pay interest along with pension and gratuity is improper.

13. The judgment in ***K. Mohandas*** (supra), which was dealing with Regulations 29(5) and 28 proviso of Bank Employees' Pension Regulations, 1995, was in respect availability of benefit to employees taking retirement under Voluntary Retirement Scheme, 2000 on completion of 20 years of service, where the question of interest for delayed payment of dues was not the consideration. Therefore, the said case is not applicable to the present case.

Therefore, the contention of the Opposite Parties, that in view of the judgments of the apex Court in ***D.L. Uppal*** and ***K. Mohandas*** (supra) the Petitioner is not entitled to interest on the delayed payment of retirement dues, is of no assistance to them and is hereby brushed aside.

14. In ***D.S. Nakara v. Union of India,*** (1983) 1 SCC 322, referring to Social Security Law by Prof. Harry Culvert, the apex Court ruled as follows:-

> *"'Pension' is paid according to rules which can be said to provide social security law by which it is meant those legal mechanism primarily concerned to ensure the provision for the individual of a cash income adequate, when taken along with the benefits in kind provided by other social services (such as free medical aid) to ensure for him a culturally acceptable minimum standard of living when the normal means of doing so failed."*

15. In ***State of Kerala v. Padmanabhan Nair,*** AIR 1985 SC 356, the apex Court observed that pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but are valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment.

16. In ***Vasant Gangaramsa Chandan v. State of Maharashtra,*** (1996) 10 SCC 148, the apex Court held that pension is not bounty of the State. It is earned by the employee for service rendered to fall back, after

retirement. It is a right attached to the office and cannot be arbitrarily denied.

17. In ***State of Punjab v. Justice S.S. Dewan,*** (1997) 4 SCC 569, the apex Court held that conceptually, pension is a reward for past service. It is determined on the basis of length of service and last pay drawn. Length of service is determinative of eligibility and quantum of pension.

The same view has also been reiterated in ***Dr. Uma Agarwal v. State of U.P.,*** AIR 1999 SC 1212.

18. In ***Kerala State Road Transport Corporation v. K.O. Varghese,*** (2003) 12 SCC 293, referring to *corpus juris secundum,* it is stated that the title 'pension' includes pecuniary allowances paid periodically by the Government to persons who have rendered services to the public or suffered loss or injury in the public service, or to their representative; who are entitled to such allowances and rate and amount thereof; and proceedings to obtain and payment of such pension.

19. Further, referring to Halsbury's Law of England 4th Edn. Reissue, Vol.16, in the very same judgment in ***Kerala State Road Transport Corporation*** (supra), the apex Court held as follows:

> *"'Pension' means a periodical payment or lump sum by way of pension, gratuity or superannuation allowance as respects which the secretary of state is satisfied that it is to be paid in accordance with any scheme of arrangement having for its object or one of its objects to make provision in respect of persons serving in particular employments for providing with retirement benefits and, except in the case of such a lump sum which had been paid to the employee."*

20. Considering the meaning attached to the word 'pension', as stated above, and on analysis of the same, three things emerge; (i) that the pension is neither bounty nor a matter of grace depending upon the sweet will of the employer and that it creates a vested right subject to the statute, if any, holding the field; (ii) that the pension is not an *ex gratia* payment but it is a payment for the past service rendered; and (iii) it is social welfare measure rendering social-economic justice to those who in the 'hey days' of their life ceaselessly toiled for employers on an assurance that in their ripe old age

they would not be left in lurch. It must also be noticed that the quantum of pension is a certain percentage correlated to the emoluments earlier drawn. Its payment is dependent upon additional condition of impeccable behaviour even subsequent to retirement.

21. In ***U.P. Raghavendra Acharya v. State of Karnataka,*** (2006) 9 SCC 630, the apex Court held that 'pension' is treated to be a deferred salary. It is not a bounty. It is akin to right of property. It is correlated and has a nexus with the salary payable to the employees as on date of retirement.

22. In ***Dr. Uma Agrawal*** (supra), the sole question for consideration by the apex Court was grant of interest in case of delayed payment. The apex Court held that pension is not a bounty but right of a retired employee. Government is obliged to initiate process for payment according to time-schedule prescribed in the departmental rules. Non-observance of the time-schedule is one of the factor, which court may take into account while considering employee's request for interest on

delayed payment. Process of payment which should have been initiated two years in advance of Petitioner's retirement, actually initiated after her retirement and payment delayed by four years. Thereby, the apex Court directed for payment of interest.

23. In ***S.K. Dua*** (supra), the apex Court held that if there is no specific rule or order providing for interest for the delayed payment of retirement dues, relief can be claimed on the basis of Article 14, 19 and 21 because retirement benefits are not a bounty. Therefore, interest on the delayed payment of retirement benefits flows from this provision. At paragraph-11, the Apex Court held as follows:-

> *"11. Xxx xxx In the circumstances, prima facie, we are of the view that the grievance voiced by the appellant appears to be well-founded that he would be entitled to interest on such benefits. If there are Statutory Rules occupying the field, the appellant could claim payment of interest relying on such Rules. If there are Administrative Instructions, Guidelines or Norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in absence Statutory Rules, Administrative Instructions or Guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. xxxx"*

Similar view has also been taken by the apex Court in ***C. Girija*** (supra).

24. In ***Dhruba Charan Panda*** (supra), this Court also directed in Paragraph-18 to the following effect:-

> *"18. We dispose of this application with a direction to the State Government to administratively instruct all the Heads of Departments and the concerned officials to ensure that different steps prescribed to be taken under the Rules are rigidly followed and any non-observance thereof is to be strictly viewed. If there is any delay in payment of pension the pensioner shall be entitled to 18% interest per annum for the period of delay and this interest shall be recovered from the person/persons responsible for the delay. While fixing the rate of interest, we have kept in view the minimum bank rate of interest charged for borrowing from bank. This aspect shall also be notified to all concerned. We are sure, if such stringent steps in addition to those, which the State Government may feel necessary to impose, are taken there shall be strict compliance of the requirement of law and in future the old retired persons shall not be required to move in the corridors of the Courts with tears in their eyes and a faint ray of hope of getting remedy early, and not posthumous. We record our appreciation for the able and fair assistance rendered by all learned counsel who appeared in the case for various parties. No costs."*

25. Following the judgments, as mentioned above, the other High Courts, namely, High Court of Madras, High Court of Bombay (Nagpur Bench) and also the Goa Bench have awarded interest for delayed payment of the dues of the petitioners in the respective cases.

26. In view of the facts and law, as discussed above, there is no iota of doubt that the Petitioner can not be deprived of getting his legitimate claim of interest on delayed payment of his retirement benefits on the plea of pendency of the Judicial Proceeding. As such, the pendency of Judicial Proceeding is only attributable to the Opposite Parties and not to the Petitioner. If it is attributable to the Opposite Parties, then in that case, the Petitioner is entitled to get interest on the delayed payment of retirement dues. Otherwise also, in view of the provisions contained in Articles 14, 19 and 21 of the Constitution of India, the Petitioner is entitled to get interest on the delayed payment of retirement dues admissible to him. Thereby, the Tribunal, without taking into consideration the above aspects, has denied the claim of the Petitioner, mechanically and without application of mind, with the following observation/direction:-

> *"In the conspectus of facts as narrated and analysed above, this Tribunal is of the opinion that the delay being not attributable to the Railway Administration, the applicant is not entitled to interest on delayed payment of pensionary benefits. In view of this, the*

O.A. being devoid of merit is dismissed, with no order as to costs."

27. From the above conclusion arrived at by the Tribunal, it is inferred that only noting down the facts of the case and quoting the provisions contained in Rule-10, the Tribunal has denied the benefit of interest to the Petitioner on the delayed payment of his retirement dues and dismissed the Original Application, which cannot be sustained in the eye of law.

28. In the above premises, the Order dated 18.05.2020 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No. 260/00869 of 2016 in Annexure-6 cannot be sustained in the eye of law and the same is liable to be quashed and hereby quashed. The Opposite Parties are directed to pay interest @ 12% for the delayed payment of retirement dues along with other admissible dues as expeditiously as possible, preferably within a period of three months from the date of communication/production of the Judgment.

29. The writ petition is accordingly allowed. However, there shall be no order as to costs.

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DR. B.R. SARANGI,
JUDGE

V. NARASINGH, J. I agree.

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V. NARASINGH,
JUDGE

Orissa High Court, Cuttack
The 26th July, 2022, Arun/GDS