



2024:DHC:8576-DB



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

+ **W.P.(C) 7668/2024 and CM APPL. 31937/2024**

MUNICIPAL CORPORATION OF DELHIPetitioner

Through: Mr. Sanjeev Sagar, Ms. Shivangi Kumar and Mr. Ankit Kumar Vats, Advocates

versus

BIJENDER SINGHRespondent

Through: Respondent in person

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

JUDGMENT (ORAL)

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06.11.2024

C.HARI SHANKAR, J.

1. This writ petition assails order dated 6 February 2024 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi¹ in OA 1195/2023.

2. The respondent, as the applicant in the OA, retired from the post of Assistant Municipal Secretary on 31 May 2019. He was aggrieved by the fact that his retiral benefits had not been paid to him.

Para 5 of the impugned judgment reads thus:

“5. Since this is an identical matter and the respondent has not given any legitimate reason for such a delay, for the sake of parity, expectations of getting similar relief is not unreasonable. Thus, the

Signature Not Verified¹ “the Tribunal”, hereinafter

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Page 1 of 5



2024:DHC:8576-DB



OA is allowed with a direction to the respondent to release the payment of interest on the delayed payment of gratuity at the GPF rate and on the other retiral benefits @12 % per annum from the due date. This exercise shall be completed within a period of two months from the date of receipt of a copy of this Order. No costs.”

3. The MCD, which has sought to challenge this decision, has raised only one contention in its writ petition, which is that it is facing extreme financial crisis and is not therefore in a position to pay interest at the rate of 12% p.a. to the respondent.

4. The contention is inherently unbelievable. It cannot be believed that the MCD does not have the funds to pay 12% interest to the respondent, as directed by the learned Tribunal. We are sanguine that the funds available with the MCD are far in excess of the interest which would be payable to the respondent @ 12% on his retiral arrears.

5. Besides, there is no iota of material on record which can support the contention that the MCD is in such dire financial crisis that it is not in a position to pay interest at the rate of 12% p.a. on the retiral dues of the respondent which have been unjustly withheld from him.

6. It must be remembered that the survival of a conscientious government servant, and his family, in the evening of their lives, is often dependent on their retiral benefits. Expeditious and prompt disbursal of retiral benefits is, therefore, of the essence, and any unjustified delay in disbursal thereof must be met with a zero tolerance approach.



7. There is a finding of 4 years' delay, on the part of the MCD, in disbursing the retiral dues of the respondent, which the MCD does not dispute. Inasmuch as the petitioner is aggrieved only by the *rate* of interest levied by the learned Tribunal on the respondent's retiral benefits, there is an implied acceptance that this delay is attributable solely to the MCD, for no explainable reason whatsoever.

8. It is worthwhile, here, to extract the Grounds in the present writ petition:

“A. Because the Hon'ble CAT turned a blind to the precarious situation in which the Petitioner is due to the paucity of funds at its disposal and the Petitioner Corporation is in the midst of an extreme financial crisis where it is not able to pay salaries to its existing employees let alone retiral benefits of its ex-employees.

B. Because the Hon'ble Tribunal has erred in awarding interest at 12% per annum to the respondent, the same is extremely high when considered in the light that the Petitioner has not purposefully withheld the payment of retiral benefits to the respondent but due to the extreme paucity of funds faced by the Petitioner wherein it does not even have funds to pay for day to day activities.

C. Because the Ld. Tribunal has passed the impugned order on the basis of conjectures and surmises and has failed to take into consideration the actual position of the parties, hence the impugned order is illegal; contrary to law and factual position and is liable to be quashed.”

The grounds urged are completely meritless. They, in fact, amount to the MCD seeking the imprimatur of the court on their extracting work from their employees without paying their salaries and retiral benefits on time, which is unthinkable in law, besides amounting to unfair labour practice. How the MCD manages its funds is its own affair; suffice it to state, however, that the court can never be an approver to the MCD not paying its employees their wages or retiral benefits. If



2024:DHC:8576-DB



they default in doing so, they must suffer interest. There is no escape.

9. Learned counsel for the petitioner then submits that the interest on the retiral dues may be also at the GPF rate as was directed in the case of interest on delayed payment on gratuity.

10. There is no justification for this prayer.

11. In the first place, this submission is beyond the pleadings in the writ petition which only pleads financial hardship.

12. Secondly, Rule 68(7)(b) of the Central Civil Services (Pension) Rules, 1968, envisages interest on delayed payment of gratuity at GPF rates, whereas there is no similar dispensation for interest on delayed payment of other retiral benefits.

13. Thirdly, and in any event, the rate of interest is a matter which is within the province of discretion of the learned Tribunal. Mr Sagar, arguing for the petitioner, is unable to point out any legal infirmity in the fixing, by the learned Tribunal, of 12% as the rate of interest payable for the delay in disbursement of the retiral benefits of the respondent.

14. We are exercising Article 226 jurisdiction and are not sitting in appeal over the decision of the learned Tribunal.

15. No conceivably sustainable ground is made out, by the MCD, for us to reduce the rate of interest of 12% p.a. fixed by the learned Tribunal for the delay in payment of gratuity to the respondent.



2024:DHC:8576-DB



16. The writ petition is dismissed.

C.HARI SHANKAR, J

DR. SUDHIR KUMAR JAIN, J

NOVEMBER 6, 2024/yg

Click here to check corrigendum, if any

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Page 5 of 5