



\$~26

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

% ***Date of decision: 06th September, 2024***

+ **W.P.(C) 12472/2024 and CM APPL.51897-98/2024**

UNION OF INDIA AND ANR

....Petitioners

Through: **Mr. Ankit Raj, Sr. Panel Counsel for
with Mr. Akash Chandrayan and Mr.
Ali Mohammed Khan, Advocates**

versus

ASHOK KUMAR DHIMAN

.....Respondent

Through: **Ms. Sonika Gill, Advocate**

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE GIRISH KATHPALIA

J U D G M E N T (oral)

1. The present petition under Article 226 read with 227 of the Constitution of India has been preferred by the petitioners seeking quashing and setting aside of order dated 30.10.2024 passed by learned Central Administrative Tribunal (the Tribunal), Principal Bench, New Delhi in OA No.2611/2018, whereby the petitioners have been directed to pay interest on delayed payment of leave encashment at the interest rate on which the interest rate of gratuity has been paid to the respondent, within a period of three months.
2. Notice issued.
3. Ms. Sonika Gill, Advocate accepts notice on behalf of respondent.
4. With consent of the parties, the present petition is being taken for



final disposal.

5. The brief facts of the case are that the respondent had preferred OA No.2611/2018 before the learned Tribunal praying for interest on the delayed payment of leave encashment. The respondent averred in the OA before the learned Tribunal that he had retired from Northern Railways, Head Quarters on 28.02.2015, the competent authority of petitioner No.2 vide memorandum dated 14.02.2014 issued a major penalty upon him. In the first round of litigation, the respondent had preferred OA No.1664/2015 seeking a direction to petitioners to complete disciplinary proceedings which was directed vide order dated 12.07.2016 by the learned Tribunal.

6. The disciplinary authority vide order dated 26.08.2016 dropped the charges levelled against the respondent.

7. The respondent moved representation dated 02.11.2016 to the petitioners to release his retiral benefits with interest, however, the petitioners only released retiral benefits without any interest. The respondent averred that his gratuity was paid on 02.03.2017; leave encashment on 28.01.2017; and group insurance on 05.05.2015.

8. Since respondent's representation was not answered to, he filed OA 1869/2017 before the learned Tribunal wherein a liberty was issued to him to file another representation before the petitioners. The respondent made another representation on 13.07.2017 which was not replied to within the time stipulated as directed by the learned Tribunal in OA No.1869/2017. Therefore, the respondent thus preferred contempt petition No.801/2017.

9. During pendency of the contempt proceedings, the petitioners vide impugned order dated 22.01.2018 granted interest only on the gratuity amount and not of other retiral benefits. However, the contempt petition was



closed on 28.06.2018.

10. In the above facts of the case, the respondent preferred the present OA before the learned Tribunal whereby, sought interest for the delayed period of payment of leave encashment from the date of retirement 28.02.2015 to 30.01.2017.

11. The petitioners had opposed the OA filed by the respondent on the ground that his representation on the subject had already been disposed of as per Pension Rules & Railway Board's instructions vide PS No.12493 & 13520, therefore, the interest is only payable on the delayed payment of DCRG beyond the three months from the date of retirement as per rate of the interest applicable to SRPF deposits.

12. The learned Tribunal in the impugned judgment placed reliance upon the decision of this Court in **Delhi Police Vs. Balwant Singh** in W.P.(C) 1227/2012 by referring the case of **Government of NCT of Delhi Vs. Shri S.K. Srivastava** W.P.(C) 1186/2012 wherein interest on delayed payment of leave encashment was allowed @ 9% per annum. The learned Tribunal also placed reliance upon decision in the case of **S.K. Dua Vs. State of Haryana** wherein it was held that the retiral benefits are not in the nature of bounty.

13. The present petition is strongly opposed by learned counsel for the respondent, who submits that the order passed by the learned Tribunal does not call for any interference by this Court.

14. Having heard learned counsel for the parties and on perusal of record of this case, we find that undisputed fact of the present case is that Vide memorandum dated 14.02.2014 major penalty charge sheet was issued against the respondent and during pendency of the enquiry proceedings, the respondent retired from his services on 28.02.2015. He was given



provisional pension as well as PF and Group Insurance Scheme benefits, however, his DCRG and leave encashment was withheld by the petitioners. The disciplinary authority dropped the charges levelled against the respondent vide order dated 26.08.2016. Meaning thereby, the respondent was not guilty in respect of which charge sheet was issued against him. However, the petitioners did not clear his retiral dues and he was forced to make a representation dated 02.11.2016. It is not in dispute that respondent was paid gratuity on 02.03.2017; leave encashment on 28.01.2017; and group insurance on 05.05.2015. Meaning thereby, having retired on 28.02.2015, the respondent could reap the benefits only till March, 2017.

15. On the aspect of payment of interest on retiral benefits, the Hon'ble Supreme Court in ***State of Kerala Vs. M. Padmanabhan Nair*** (1985) 1 SCC 429 has held as under:-

“1. Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, under the decisions of this Court, 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 view of the above, in the facts of the present case, we find that the learned Tribunal has rightly held petitioners liable to pay interest on delayed payment of leave encashment at the interest rate on which the interest of gratuity has been paid to the respondent.

17. Finding no infirmity or perversity in the impugned order passed by learned Tribunal, we confirm the same and the present petition is dismissed with direction to the petitioners to comply with the impugned order dated



30.10.2014 passed by learned Tribunal within 4 weeks of this order.

18. With directions, as aforesaid, the present petition and pending application, are accordingly disposed of.

(SURESH KUMAR KAIT)
JUDGE

(GIRISH KATHPALIA)
JUDGE

SEPTEMBER 6, 2024

rk/r