



\$~107

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

+ **W.P.(C) 7029/2013**

SH. AMZAD KHAN LR OF ABRAR HUSAIN KHAN

.....Petitioner

Through: Mr. Bhim Sain, Advocate.

versus

**THE GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF
DELHI AND ORS**

.....Respondents

Through: Ms. Yamunah Nachiar and Ms.
Ruhini Dey, Advocates for R-2.

Mr. S.K. Singh, Advocate for R-3 with
Mr. Ravinder Prasad, AM (F), Pension Trust and
Mr. Ajeet M. Kindo, AM (F).

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

18.10.2024

%

CM APPL. 2448/2024

1. This is an application filed on behalf of Mr. Amzad Khan, legal representative of deceased Petitioner, under Section 5 of Limitation Act, 1963, for condonation of delay in filing the amended memo of parties in compliance of order dated 14.08.2023.
2. For the reasons stated in the application, the same is allowed and the delay is condoned. Amended memo of parties is taken on record.
3. Application stands disposed of.

W.P.(C) 7029/2013

4. This writ petition was preferred by Sh. Abrar Husain Khan, seeking the following reliefs:-



“I. issue a writ of certiorari or mandamus or any other appropriate writ, order or direction, in the nature thereof directing the respondent No.2 Delhi Transco Co. Ltd. to implement D.V.B.'s Office order No. F-5(11)/A&G / PRC/217 dated 23 -7-1997 and Office Order No. F. 5(11)/A&G/PRC-97/Part-III/ 63 dated 21st, December, 1999

II. issue a writ of certiorari or mandamus or any other appropriate writ, order or direction, in the nature thereof directing the respondents to release the difference in salary and also difference in pension and other consequential benefits to the petitioner;

III. pass such other orders or further orders/direction/s to the Respondent no.2 and respondent No. 3 which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and to meet the end of justice;

IV. To award interest, costs and the litigation expenses of the present writ petition in favour of the Petitioner and against the respondent No.2.”

5. During the pendency of the writ petition, Sh. Abrar Husain Khan expired and vide order dated 03.08.2023, his legal heirs were brought on record. Smt. Kulsum Begum, widow of deceased Petitioner also expired on 03.05.2023 leaving behind 5 sons and two daughters. In the application, being CM. No. 39381/2023, it is stated that all legal heirs of the deceased Petitioner have relinquished their shares in favour of Sh. Amzad Khan, one of the sons of late Abrar Husain Khan, the original Petitioner. All legal heirs are on record and the Relinquishment Deed has also been filed.

6. During the course of hearing, Petitioner and official Respondents have exchanged their respective calculations of the amounts outstanding towards the Petitioner and it is agreed that: Rs.4,554/- is due to the Petitioner towards gratuity; Rs.2,760/- towards leave encashment; Rs.2,940.40 towards arrears of salary; Rs.2,946/- towards arrears of pension upto 30.06.2002 i.e. the date of unbundling of DVB and from 01.07.2002 an amount of Rs.1,89,545.77 is due towards arrears of pension. There is no dispute between the parties that the amounts outstanding towards the Petitioner up to the period 30.06.2002



will be paid by Respondent No.2 i.e. Delhi Transco Company Limited and the liability to pay the amounts due thereafter will be borne by D.V.B Employees Terminal Benefits Fund, 2002 (Pension Trust).

7. In view of the aforesaid settlement between the parties, it is directed that the amounts due to the Petitioner upto 30.06.2002, as aforementioned, will be released by Respondent No.2 while the liability to pay the amounts due thereafter will be borne by the Pension Trust. Equally settled is the law on grant of interest on delayed payments of retiral benefits and the Supreme Court and other High Courts have time and again held that when an employer delays release of retiral benefits, he is bound to pay interest for the period of delay. Without burdening this judgment, I may refer to the judgment of the Calcutta High Court in case of ***Padma Nath v. State of West Bengal and Others, 2019 SCC OnLine Cal 2185***, which captures other judgments on the issue and relevant paragraphs are as follows:—

“6. The decisions relied upon support the settled law on the right of a retired teacher or employee to his/her retirement benefits without any delay. The principle that the disbursement of pension and other retirement benefits should not be treated as a matter of bounty but are valuable rights and property and any delay in settlement or disbursement thereof must be compensated with the penalty of payment of interest at the current market rate till actual payment to the employee, as has been held in several cases, including in State of Kerala v. M. Padmanabhan Nair ((1985) 1 SCC 429) [see also D.D. Tewari v. Uttar Haryana Bijli ((2014) 8 SCC 894 : AIR 2014 SC 2861)]. In D.D. Tewari, the court awarded interest to the legal representatives of the deceased employee upon holding that there has been a miscarriage of justice on denial of payment of interest.

7. In Niranjana Kumar Mondal v. State of West Bengal, (2012) 1 WBLR (Cal) 903, this court relying on Aloke Shanker Pandey v. Union of India, (2007) 3 SCC 545 : AIR 2007 SC 1198 explained the concept of grant of interest in that interest is not a penalty or punishment but is an accretion on capital. Interest is therefore to make good the loss of opportunity to the person who could have earned interest on a certain sum of money if that sum of money had been paid to that person on time. The element of compensation also arises from the possible gain made by the person who withheld the amount of money for a certain period of time on



the premise that the person thus deprived may have earned interest on the amount invested. The equitable consideration is therefore not only to pay the principal amount to the person who has been deprived but also the amount which that person could have earned by way of interest on the principal amount for the period when the principal amount had been with the concerned authority. In S.K. Dua v. State of Haryana, (2008) 3 SCC 44, the issue before the Supreme Court was whether the appellant was entitled to interest on his retirement benefits which were kept pending due to certain charges pending against the appellant. The retirement benefits in that case were paid to the appellant four years after his superannuation. The emphatic words used by the Supreme Court are set out below;

“14. 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 of 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. The submission of the learned counsel for the appellant, that retiral benefits are not in the nature of “bounty” is, in our opinion, well founded and needs no authority in support thereof. In that view of the matter, in our considered opinion, the High Court was not right in dismissing the petition in limine even without issuing notice to the respondents.”

xxx

xxx

xxx

11. That the right of writ petitioner to get his retiral dues on the date of attaining superannuation is a valuable right and a legal duty is hence cast upon the concerned authorities to ensure that such a right is not defeated; Satya Ranjan Das v. State of West Bengal, (2007) 3 CLT 531.”

8. Even recently in ***Dr. A. Selvaraj v. C.B.M. College and Others, (2022) 4 SCC 627***, the Supreme Court has observed that a retired employee is entitled to interest on delayed payment of retiral benefits, if he is not at fault for the delay. Earlier, a Division Bench of this Court in ***K.L. Manhas v. Union of India and Ors., 2015 SCC OnLine Del 12258*** and Single Benches in ***R.P. Tak v. Secretary, Ministry of Heavy Industries & Public Enterprises and Anr., 2017 SCC OnLine Del 10760*** and ***H.N. Sharma v.***



Govt. of NCT of Delhi, W.P. (C) 1724/2017, decided on 21.08.2020 have allowed interest on retiral benefits.

9. Accordingly, this writ petition is allowed to the aforesaid extent directing the Respondents to release the amounts as noted above to the Petitioner within a period of three weeks from the date of receipt of this order along simple interest @ 6% per annum from the date the amounts became due till the date of actual payment.

10. Petition stands disposed of.

JYOTI SINGH, J

OCTOBER 18, 2024/shivam