Ct. No.4 D/L 19.06.2025
(Naba) 01

W.P.C.T. 44 of 2025

Union of India & Ors.
Vs.
Smt. Shyamali Sen

Mr. D.N. Ray, Sr. Adv.,
Ms. Sayani Roy Chowdhury
...for the Petitioners

1. Heard the learned senior counsel for the petitioners.

2. The respondent, a peon retired from service on 09.04.2015. Prior to her retirement, she was served with a show-cause asking her to explain the circumstances in which she was habitually reporting late in office, at about 11 a.m. The authorities, however, did not proceed against her by submitting any charge memo. No departmental proceeding was conducted on this ground. After her retirement, there is deduction of an amount of ₹ 7,63,375/- from the respondent's entitlement under the head DCRG which she represented against. When no action was being taken by the authorities to redress her grievance, she approached the Central Administrative Tribunal, Kolkata Bench (hereinafter referred to as the 'C.A.T.'). Her O.A. was registered as O.A. No. 714 of 2017. In those proceedings, as is evident from the order dated 06.09.2018, disposing of the matter, the authorities were called upon to justify the amount recovered. In spite of the opportunity

given to the authorities, they could not even produce any records of late attendance to show the exact number of days of late attendance, let alone any provision under which they could treat a late attendance as debitable from leave account to subsume all kinds of leave due to the respondent. There is no justification for the conclusion that she has arrived at the office late so as to justify an extraordinary leave of 1009 (one thousand and nine) days based on which the amount was sought to be deducted. The C.A.T. further found that the deduction was made post-retirement and could only have been done by a procedure recognised under the CCS (Pension) Rules, which has not been done.

3. In view of these circumstances, the C.A.T. directed the authorities to refund the entire amount recovered forthwith giving liberty to the authorities to act in accordance with law. Thereafter the amounts are said to have been paid back to the respondent but without any interest. The respondent in these circumstances filed another O.A. bearing No. 1738 of 2022, disposed of by judgement dated 30.09.2024 directing the authorities to pay simple interest at the rate of 7% per annum on the amount recovered from the respondent's retiral dues for the period from the

due date of payment till the actual date of payment, within 90 (ninety) days from the date of certified copy of the order being received in their office. This judgement of the C.A.T. is the subject matter of the present proceedings.

4. The learned senior counsel for the petitioners submits that there was no administrative lapse on the part of the authorities. According to Rule 19A of the All India Services (Death Cum Retirement Benefits) Rules, 1958 ('1958 Rules' for short), interest could have been levied only in the case an administrative lapse was found to be the basis for denial of dues under the heading death-cum-retirement gratuity. There being no such administrative lapse in the present case, the direction of the C.A.T. to grant interest is unsustainable. Another limb of his submission is that the respondent failed to raise such claim for grant of interest in the earlier O.A. and therefore, she is estopped from making such a claim and the C.A.T. has fallen in error by allowing such a claim.

5. We have considered the submissions advanced on behalf of the petitioners. Rule 19A relied upon by the petitioners reads as follows:

> *"19A. Interest on delayed payment of Gratuity or Death-cum-Retirement Gratuity:*
>
> *19A (1) If the payment of gratuity or death-cum-retirement gratuity has been authorised after*

> *three months from the date when its payment became due, and it is clearly established that the delay in payment was attributable to administrative lapses, interest at the rate prescribed by the Central Government from time to time shall be paid on the amount of gratuity or death-cum-retirement gratuity in respect of the period beyond three months."*

6. Keeping in background the provision of the Rule, the submission of the learned senior counsel for the petitioners that the authorities was not liable to pay interest on the amount of DCRG to which the respondent was deprived, since the delay was not due to any administrative lapse, is unacceptable to this Court.

7. From bare perusal of the order passed by the C.A.T. in the earlier O.A., which was never assailed by the authorities, and in fact has been complied with by the authorities, it is obvious that the authorities were not even able to show any records to justify their allegation regarding late attendance of the respondent over long periods. They also did not comply with the requirements under the CCS (Pension) Rules 1972 before making or directing any recovery from the respondent's DCRB benefits. The respondent retired as a peon and therefore, it is obvious that she must have suffered extreme hardship on the account of recovery of such a huge amount from

her retiral dues. The administrative lapse is also apparent from the records.

8. Insofar as the issue regarding the respondent being estopped from claiming any interest now, we find such plea to be unsustainable in view of the fact that there is a specific provision in the 1958 Rules extracted above which casts an obligation on the authorities by virtue of a statutory rule. We thus reject such submission of the learned senior counsel as being untenable.

9. In view of such consideration, we do not find any reason to interfere with the order dated 30.09.2024 passed by the C.A.T. in O.A. No. 1738 of 2022.

10. We only modify the same in respect of the time granted for making the payment in terms of the impugned order passed by the C.A.T. which shall stand modified to be read as a period of 90 (ninety) days from the date of receipt/production of a copy of this order before the authorities.

11. The Writ Petition being **W.P.C.T. 44 of 2025** is dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)