23.07.2025
(D/L-5)
Ct. No.4
(B.K.N.)

W.P.C.T. 125 of 2025

Sri Rajendra Kumar Yadav
Vs.
Union of India & Another

Mr. Ujjal Roy,
Mr. S. K. Ganguly
...for the Petitioner

Mr. Prabir Bhowmik,
Mr. Amit Sharma
...for the Respondents

1. The petitioner herein has assailed the order passed by the Central Administrative Tribunal in O.A. 1142 of 2024 dated 26.03.2025 whereby the prayer made by the petitioner seeking interest in respect of delayed payment has been rejected by the learned Tribunal.
2. The fact of the case is that the petitioner retired on 31.01.2018 and at the time of retirement a judicial proceeding being a criminal case was pending against the said petitioner. Subsequently on 08.05.2023 the Hon'ble High Court of Jharkhand at Ranchi quashed the criminal case against the applicant in Criminal M.P. No. 3308 of 2013 along with Criminal M.P. No. 2540 of 2012 bringing an end to the criminal proceeding in favour of the petitioner. The said fact was intimated to the authority on 21.07.2023 and 25.08.2023. Subsequently on receiving the said information the amount of gratuity which was withheld

was disbursed in favour of the petitioner on 14.11.2023. The said order passed by the Hon'ble Bench is laid down which is as follows:

> ***"As, the record reflects that the criminal case against the applicant i.e., Rajendra Kumar Yadav Has been quashed vide Judgment and Order dated 08.05.2023 in Cr. M.P. No. 3308 of 2013(Ashok Kumar vs. State of Jharkhand & Anr.) along with Cr. M. P. No. 2540 of 2012 (Rajendra Kumar Yadav & Ors. vs. State of Jharkhand & Anr.) passed by the Hon'ble High Court of Jharkhand at Ranchi. Thereafter, the applicant preferred a representation dated 21.07.2023 for informing the competent authority that his criminal case has been quashed by the Hon'ble High Court and further requested for release of his Death-cum-Retirement Gratuity (DCRG) under Section-87(1) of R. S. Pension Rules, 1993, which remain pending till date.***
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> ***Under the circumstances, the competent authority i.e., Sr. Divisional Personnel Officer, South Eastern Railway, Adra Division, i.e., respondent no. 2 herein, is directed to decide the said application/ claim of the applicant as expeditiously as possible, preferably within a period of 02 (two) months from the date of receipt of a certified copy of this order, strictly in accordance with law.***
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> ***It is made clear that we have not expressed any opinion on the merit of the claim of the applicant, and all points are kept open for consideration by the respondents. OA stands disposed of. No costs."***

3. As the petitioner was not granted interest on DCRG dues for the period of delay in disbursing the amount of gratuity he has preferred the Original Application referred hereinabove.
4. The authorities had withheld the DCRG dues by resorting to Rule 10(1)(c) of the Railway Services Pension Rules, 1993 which contemplates withholding DCRG dues in case of pendency of a criminal case

against a retired employee. Though the petitioner was entitled to payment of his DCRG on the day following the date of retirement and the same not being paid to him and, therefore, the criminal case being quashed he claimed interest on the DCRG dues.

5. The learned counsel representing the petitioner has relied upon a judgment passed by a coordinate Bench of this Hon'ble Court in the case of ***Md. Farid –Vs.- Union of India and Others*** reported in ***2024 SCC OnLine, Cal 2816*** and has stressed upon paragraph 21 & 23 of the said judgment which reads:

> "**21.** The proposition of law that could be culled out from the judgment delivered in the case of *Y.K. Singla* (Supra) is that from the mandate of Section 14 of the 1972 Act, it is imperative to conclude that the provisions of the 1972 Act would have overriding effect with reference to any inconsistency therewith in any other provision or instrument. The benefit of interest enuring to an employee as has been contemplated under Section 7(3A) of the 1972 Act cannot be denied to the employee whose gratuity is regulated by some provision/instrument other than the 1972 Act even though the alternative instrument is silent on the issue of payment of interest. When the employee has been acquitted in the criminal proceeding which was pending against him at the time of superannuation, he cannot be held to be at fault disentitling him to the interest over the gratuity amount on and from the date of his superannuation till the date of his acquittal in the concerned criminal proceeding. The *'fault"* ingredient of the employee for denial of gratuity when it becomes due, remains unsubstantiated when none of the salient ingredients of the proviso under Section 7(3A) of the 1972 Act is satisfied.
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> **23.** It is not a case that payment of gratuity was delayed because of some fault of the employee himself. The respondents, at their own risk, withheld the payment of gratuity during pendency of the criminal proceeding knowing fully well that the issue as to the whether the petitioner had any fault or not can only be

> ascertained after the criminal proceedings are concluded. The petitioner was ultimately acquitted. During the period from superannuation till acquittal, gratuity was withheld on the basis of a mere assumption that the petitioner may be found guilty after conclusion of the criminal proceedings. In view thereof, the respondents cannot wriggle out of the rigours of the 1972 Act and deny payment of interest to the petitioner over the gratuity amount for the period from the date of superannuation till the date of acquittal."

6. He has also relied upon a Railway Board Master Circular (Master Circular for short) No. 60 updated in December, 2019 on Pension and Retirement/Death Gratuity and has stressed upon point no. 12 which lays down as follows:

> "12. Where disciplinary or judicial proceedings are pending against a railway servant on the date of retirement, no gratuity is paid until the conclusion of the proceedings and the issue of orders thereon. On conclusion of the proceedings, interest on delayed payment of DCRG may be paid if the railway servant is fully exonerated. The gratuity shall be deemed to have fallen due for payment on the day following the date of retirement."

7. Relying on the aforementioned facts and the rules the learned counsel has stressed on his claim of interest on the amount of gratuity which has been paid at a belated stage.
8. The learned counsel representing the Railways in support of his contention has submitted that the judgment passed by the Central Administrative Tribunal is correct and does not require interference as the railway authorities have disbursed the DCRG dues of the petitioner on 14.11.2023, having received the

information of his acquittal on 25.08.2023 that is within three months from receipt of the information. There is another submission advanced to deprive the petitioner of any interest that the withholding was under the Railway Services Pension Rules 10(1)(c) and withholding cannot be attributable to any administrative lapse on the part of the authorities. He has also relied upon a judgment passed by the Hon'ble Apex Court in the case of Bank of India And Another –Vs.- K. Mohandas And Others reported in (2009) 5 SCC 313 and has referred to paragraph 16 of the said judgment which reads:

> "**16.** The admitted factual position in this batch of appeals is that each of the employees had completed 20 years of service. It may be noticed that at the fag end of the operation of VRS 2000, at the instance of IBA and with the approval of the Central Government, Regulation 28 was proposed to be amended. The amendment in fact was carried out in the year 2002 with retrospective effect from 1-9-2000. By way of amendment, a proviso has been inserted to Regulation 28, which reads as follows:
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> > "Provided that pension shall also be gratned to an employee who opts to retire before attaining the age of superannuation, but after having served for a minimum period of 15 years in terms of any scheme that may be framed for the purpose by the Bank's Board with the concurrence of the Government.""

9. On going through the Master Circular point no. 12 it transpires that where disciplinary or judicial proceeding is pending against a railway servant on the date of retirement, gratuity cannot be paid until the conclusion of the proceedings and the issue of orders

thereon. On conclusion of the proceedings, interest on delayed payment of DCRG may be paid if the railway servant is fully exonerated. The Gratuity shall be deemed to have fallen due for payment on the day following the date of retirement. In this instant case the criminal proceeding was quashed by the High Court of Jharkhand at Ranchi thereby the petitioner has been exonerated from the said criminal proceedings. Under such circumstance, from the circular it transpires that the gratuity shall be deemed to have fallen due for payment on the day following the date of retirement.

10. On perusal of Rule 70 of the Railway Services Pension Rules, 1993, it is obvious that an employee is entitled to the retirement gratuity on his retirement. This due, however, has been delayed by the authorities, relying upon a provision contained in this service rules. The authorities have exercised discretion under Rule 10(1)(c) and thereby consciously took the risk of having to pay interest on delayed payment upon petitioner's exoneration. Therefore, they are obliged to pay the DCRG dues along with interest as if it had fallen due for payment on the day following the date of retirement. The petitioner cannot be deprived, or made to suffer for such conscious exercise of discretion by the authorities.

11. As per paragraph 23 of the judgment of ***Md. Farid (supra)*** as the respondents at their own risk withheld the payment of gratuity during the pendency of criminal proceeding and ultimately the petitioner was acquitted, the payment of gratuity was delayed because of no fault of the employee. Thus, according to the Payment of Gratuity Act, 1972 the respondents cannot evade from or deny the payment of interest in respect of the amount of gratuity withheld, to be paid to the petitioner, for the period from the day following the date of retirement till the date of payment.

12. We find that the judgment cited by the learned counsel representing the respondents is not applicable to the facts and circumstances of the present case in any manner whatsoever. The judgment cited relates to payment of pension and there is no issue of withholding of gratuity while we are concerned with the delayed payment of gratuity as such the said judgment is not applicable to the facts and circumstances of the present case.

13. In view of consideration above, we find that the petitioner is entitled to interest from the date of his superannuation on 31.01.2018, at the rate in respect of fixed deposit being paid by the nationalized banks, till the date of actual payment.

14. The order dated 26.03.2025 passed by the Tribunal in O.A. 1142 of 2024 is unsustainable and is hereby set

aside. The writ petition is allowed and the Original Application also stands allowed.

15. Urgent Photostat Certified copy of this order, if applied for, be supplied to the parties upon compliance with all necessary formalities.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)