

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

HEARD ON: 25.02.2026
DELIVERED ON: 25.02.2026

CORAM:
THE HON'BLE CHIEF JUSTICE SUJOY PAUL
AND
THE HON'BLE JUSTICE PARTHA SARATHI SEN
WP.CT. 259 of 2024
Sivaji Paul
Versus
Union of India & Ors.

Appearance:-

Mr. Ujjal Ray

Mr. Arpa Chakraborty

.....for the Petitioner

Mr. Srijib Chakraborty

.....for the respondents

JUDGEMENT (ORAL):

PER, SUJOY PAUL, CJ.:-

1. This petition filed under Article 226/227 of the Constitution takes exception to the order of the Central Administrative Tribunal, Kolkata Bench (for short 'Tribunal') dated 11.05.2022 in O.A. No. 350/00077/2021, whereby reliefs, prayed for by the petitioner/applicant have been partially granted but while directing payment of benefit of retiral dues, interest amount has

not been granted. For this limited extent, present petition has been filed.

2. In nutshell, the relevant facts are that the petitioner, while working with the department, attained the age of superannuation on 30.11.2019. Admittedly, when he retired, he was facing a judicial/criminal proceeding. In the result, the department withheld his certain retiral dues in the teeth of rules 9(3) and 10 of **Railway Services (Pension) Rules, 1993**.
3. The petitioner filed aforesaid O.A. before the Tribunal and Tribunal in para 7 of impugned order opined that since applicant is yet to be convicted by a Court of Law, withholding of the retiral benefits is bad in law and accordingly, directed release of those benefits within three months from the date of receipt of copy of order.
4. Admittedly, petitioner received those withheld benefits before the decision of the pending criminal case, which came to be passed on 24.01.2023.
5. Sri Roy, learned counsel for the petitioner submits that as per the order of the Tribunal, the department was not justified in withholding the benefit of retiral dues and therefore, for delayed payment of such benefits, petitioner is entitled to get interest.

6. By placing reliance on the judgment of Supreme Court in the case reported in **(2022) 7 SCC 796 (Agricultural Produce Marketing Committee, Bangalore vs. State of Karnataka & Ors.)**, it is submitted that the Supreme Court opined that if multiple issues are raised before the Court, the Court is obliged to answer all the issues. It is not proper to decide only one issue and dispose of the matter. On the touchstone of this principle, if reliefs claimed before the Tribunal are examined, it will be clear like noon day that petitioner claimed the benefit of interest as well, which prayer has not been considered by the Tribunal.
7. Thus, in the light of aforesaid judgment of Supreme Court, the matter may be remitted back on the limited issue of grant of interest to the Tribunal and Tribunal may re-consider and pass fresh order on that aspect.
8. Petitioner has shown interest to get interest in the teeth of certain executive instructions issued by the Railway Board. The first instruction is Letter No. PCIII/79/DP/1 dated 26.9.1979. Another is published in Railway Board's Orders on Establishment, 1991 (Including Finance Directorate), Vol.1 Compiled and Edited by Sri Sanjiv Malhotra and published by Bahri Brothers.

9. By conjointly reading these circulars, learned counsel for petitioner submits that once railway servant is exonerated of charges, he deserves interest.
10. Sounding a contra note, learned counsel for the department submits that although the department has not challenged the validity of impugned order of Tribunal dated 11.05.2022, it is clear that rules 9(3) and 10 of Pension Rules permit the department to withhold retiral dues during the pendency of disciplinary/judicial proceedings. Pursuant to the order of the Tribunal, before conclusion of judicial proceeding, department paid the entire dues. Thus, the period within which amount was withheld by the department was neither unauthorised nor illegal.
11. If such withholding of amount is not illegal, question of grant of interest does not arise. He placed reliance on the judgment of Supreme Court reported in **(1999) 9 SCC 43 (R. Veerabhadram vs. Govt. of A.P.)**.
12. Learned counsel for petitioner and respondents have taken a diametrically opposite stand as to whether the end of judicial proceeding by way of compounding amounts to exoneration of the petitioner from the allegations.

13. No other point is pressed by learned counsel for the parties.
14. We have bestowed our anxious consideration on rival contentions and perused the record.
15. No doubt, the department has not chosen to assail the order impugned, wherein it was held that since the petitioner was not convicted, the department is bound to release the retiral dues. Thus, in absence of any such petition assailing the said order by the department, we are not inclined to disturb that portion of the order.
16. Rules 9 and 10 of Pension Rules are quoted hereinbelow:

9. Power to withhold or withdraw pension.- (1) (a) *The President, in the case of a pensioner who retired from a post for which the President is the appointing authority;*

(b) the Railway Board, in the case of a pensioner who retired from a post for which an authority subordinate to the President is the appointing authority,

may, by order in writing, withhold a pension or gratuity, or both, either in full or in part, or withdraw a pension in full or in part, whether permanently or for a specified period, and order recovery from a pension or gratuity of the whole or part of any pecuniary loss caused to the Railway, if, in any departmental proceedings or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of service, including service rendered upon re-employment after retirement :

Provided that the Union Public Service Commission shall be consulted before any final orders are passed by the President under this sub-rule:

Provided further that where a part of pension is withheld or withdrawn, the amount of such pension shall not be reduced below the amount of minimum pension under rule 69.

(3) In the case of railway servant who has retired on attaining the age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings instituted under rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 are continued under sub-rule (2), a provisional pension as provided in rule 10 shall be sanctioned.

10. Provisional Pension where departmental or judicial proceedings may be pending.–

(1) (a) in respect of a railway servant referred to in sub-rule (3) of rule 9, the Accounts Officer shall authorise the **provisional pension** equal to the maximum pension which would have been admissible on the basis of qualifying service up to the date of retirement of the railway servant, or if he was under suspension on the date of retirement, up to the date immediately preceding the date on which he was placed under suspension.

(b) the provisional pension shall be authorised by the Accounts Officer during the period commencing from the date following the date of retirement up to and including the date on which, after the conclusion of departmental or judicial proceedings, final orders are passed by the competent authority.

(c) **no gratuity shall be paid to the railway servant until the conclusion of the departmental or judicial proceedings and issue of final orders thereon.**

(d) the provisions of this rule shall not be applicable where allegations of misconduct are under investigation against a railway servant or where departmental or judicial proceedings are contemplated against a railway servant but have not actually been instituted or deemed to have been instituted in accordance with explanation to rule 9, till the date of retirement of the railway servant and the pension and

gratuity in such cases shall be authorised to be paid to the railway servant on his retirement in accordance with rule 85: Provided that any departmental proceedings instituted after retirement of the railway servant shall be subject to the provisions of sub-rule (2) of rule 9.

(2) payment of provisional pension made under sub-rule (1) shall be adjusted against final retirement benefits sanctioned to such railway servant upon conclusion of such proceedings but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or the pension is reduced or withheld either permanently or for a specified period. (Authority: Railway Board's letter No. 2023/F(E)III/PN1/1 dated 24.06.2024)"

(Emphasis Supplied)

17. Rules 9(3) and 10 of the Pension Rules makes it clear that department is indeed equipped with the power to withhold the retiral dues during the pendency of judicial/disciplinary proceedings. If any order is passed by the Court/Tribunal *dehors* the statutory provision, the said finding is *per incurium* finding.
18. Law is well-settled that interest can be directed to be paid, if somebody keeps the money or amount payable unauthorisedly with him. In the instant case, rules 9(3) and 10 permit the department to withhold the said amount during the pendency of judicial proceedings. Thus, by no stretch of imagination, it can be said that amount was illegally withheld by the department.

19. In the case of **R. Veerabhadram (supra)** rule 52 of A.P. Revised Pension Rules, which are almost *pari materia* to Rule 10(1) and 10(1)(c) of instant Pension Rules were considered and in paragraphs 6 and 9, the Apex Court made it clear that it cannot be said that there was any illegal withholding of gratuity by the respondents. The Supreme Court, therefore, did not find any reason to order payment of interest on the amount of gratuity so withheld.
20. Apart from this, a question cropped up before the Supreme Court in the case of **Management of Reserve Bank of India, New Delhi vs. Bhopal Singh Panchal** reported in **(1994) 1 SCC 541**, whether an employee, who was placed under suspension during the pendency of a criminal case is entitled to get the entire financial benefits on his acquittal. The Apex Court in the said case opined that the criminal case was between the delinquent employee/accused and the State. Therefore, his involvement is based on his conduct and department cannot be saddled with payment of entire dues. If there is delay in conclusion of such criminal proceedings, it is not obligatory on the part of the department to pay the entire dues minus subsistence allowance.

21. In this backdrop, we are unable to hold that the petitioner was entitled to get interest on the retiral dues. More so, when admittedly, before his acquittal on 24.01.2023 entire amounts have been paid by the department.
22. Thus, the executive instructions on which Sri Roy placed reliance are of no assistance to him.
23. If any relief, which has been prayed for and is not considered by the Tribunal, we could remand the matter back to the Tribunal. However, since a pure legal question cropped up before us we thought it proper to shorten the litigation and give quietus to this matter by deciding the singular issue.
24. Resultantly, we decided this matter on merits on the question of interest and we are inclined to hold that interest shown by the petitioner in getting interest is misconceived.
25. The petition is accordingly, **dismissed**.

(SUJOY PAUL, C.J.)

I agree.

(PARTHA SARATHI SEN, J.)