
(2009) 12 CHH CK 0027
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 1255 of 2009

Dr. Purshottam Rao Choudhary	Vs	APPELLANT
State of C.G. and Another		RESPONDENT

Date of Decision : 10-12-2009

Acts Referred:

Constitution of India, 1950 — Article 14, 19, 21

Citation : (2009) 12 CHH CK 0027

Hon'ble Judges : S.K. Agnihotri, J

Bench : Division Bench

Final Decision : Allowed

Judgement

S.K. Agnihotri, J.—With the consent of learned counsel appearing for the parties, the petition is heard finally.

2. By this petition, the petitioner seeks a direction to the respondent authorities to grant interest on his retrial dues, as the retrial dues have been paid to the petitioner belatedly after 10 years.

3. The indisputable facts, in brief, for adjudication of the case, are that initially the petitioner was appointed as Assistant Surgeon by order dated 18-11-1977 (Annexure -P/1). After completion of 20 years of service, the petitioner applied for voluntary retirement and accordingly he was retired from service w.e.f. 10-12-1997.

4. As the full and final retrial dues have not been paid to the petitioner, he preferred an original application before the State Administrative Tribunal (for short "The Tribunal") being O.A.No. 73/2001. After abolition of the Tribunal, the original application was transferred to this Court and the same was renumbered as W.P (S) No. 3525 of 2005.

5. During pendency of the petition, the State Government released an amount of Rs. 7,01,702/- (Rs. 1,44,080/- Towards gratuity + Rs. 5,57,622/- towards

pension) in favour of the petitioner without any interest in spite of the facts that the said payment has been made to the petitioner after an inordinate delay of about 10 years.

6. By order dated 3-3-2008 (Annexure -P/3) the writ petition (S) No. 3525 of 2005 was disposed of by this Court and the matter was referred to the Pension Committee. In compliance of the order passed by this Court, the petitioner submitted representations before the Pension Committee, which were disposed of by the Pension committee by order dated 8-10-2008 (Annexure - P/6) without any interference, on the ground that the retrial dues have already been paid to the petitioner.

7. The contention of the petitioner is that the Pension Committee has not considered the prayer made by the petitioner with regard to grant of interest on the delayed payment. Again the petitioner submitted a representation dated 8-12-2008 (Annexure - P/7) before the Department of General Administration for grant of interest on the delayed payment of retrial dues, but the same was not considered and decided. Thus, this petition.

8. Learned counsel appearing for the respondents/State submits that due to pendency of W.P.(S) No. 3525 of 2005 the retrial dues could not be paid. Thus, the petitioner is not entitled for interest on the ground of delayed payment.

9. I have heard learned counsel appearing for the parties, perused the pleadings and the documents appended thereto.

10. It is an admitted position that the petitioner retired from service voluntarily w.e.f. 10-12-1997, but till 2005 the retrial dues were not paid to him without any default on the part of the petitioner. It is not a case of the respondents that there was any order during pendency of the petitioner either by the Tribunal or by the High Court restraining the respondents from paying the legally admissible retrial dues to the petitioner, the petitioner was deprived of his legal retrial dues for a period of about 10 years and, as such, he is entitled to interest thereon on account of delayed payment.

11. In a similar facts of case, the Supreme Court in S.K. Dua Vs. State of Haryana and Another, very specifically observed that if the retrial benefits are given with delay of years, then the employee would be entitled to interest on such retrial benefits in accordance with the rules and even in absence of rules, employee can claim interest by relying on Articles 14, 19 & 21 of the Constitution of India.

12. The contention of learned counsel appearing for the respondents/ State is noticed to be rejected, as the pendency of petition does not debar the State/ respondents to take a decision for payment of retrial dues, interest, etc,

13. Applying the well settled principles of law and for the reasons mentioned hereinabove, this court is of the considered opinion that the petitioner is entitled to interest at the rate of 6.5% per annum from the date of his voluntary

retirement till the actual payment of retiral dues, made by the respondent authorities to the petitioner.

14. In the result, the writ petition is allowed to the extent indicated above. No order as to costs.