

(2008) 01 DEL CK 0009
In the Delhi High Court
Case No : LPA No. 34 of 2008

D.T.C.	Vs	APPELLANT
Roshan Lal and Others		RESPONDENT

Date of Decision : 22-01-2008

Acts Referred:

Citation : (2008) 147 DLT 665 : (2008) 3 SLJ 527

Hon'ble Judges : Dr. M.K. Sharma, C.J.;Reva Khetrapal, J

Bench : Division Bench

Advocate : Vibbhu Shankar, for the Appellant; Nemo, for the Respondent

Final Decision : Dismissed

Judgement

Mukundakam Sharma, C.J.

CM No. 1023/2008

For the reasons stated in the application, the application is allowed and the delay in re-filing the appeal is condoned.

The application stands disposed of.

LPA No. 34/2008, CM No. 1022/08(Delay) and CM 1021/2008

1. There is a delay of 187 days in filing the appeal. An application has also been filed along with the appeal, praying for condensation of the said delay. Since the learned Counsel for the appellant has put forth arguments on merits of the case, we propose to dispose of the appeal on merits.

2. Counsel appearing for the appellant has raised only one issue that the learned Single Judge could not have passed an order for payment of compound interest @ 12% per annum on the delayed payment of pension. We have considered the said submission in the light of the records placed before us. The contention raised is that the respondents have no right to claim interest on the arrears of pension, due to the delay in disbursement, as they had themselves submitted an

affidavit stating that they would not claim any interest on the arrears of pension. It is also submitted before us that the aforesaid delay in making the payment was procedural as the question with regard to respondents' entitlement for pension was a matter of inquiry by the appellant.

3. On the face of it, the aforesaid contention cannot be accepted in view of the fact that there was delay in release of arrears of pension to the respondents. The respondents also cannot be blamed for non-inclusion of their names in the list of the employees who opted for DTC Pension Scheme. What was required to be done has been done by them and it was for the appellant to process their case well in time for making payment of pension. The appellant also has a specific rule which provides for payment of interest @ 12% per annum on non-payment or delayed payment of pension. In view of the mandate of the said provision, it was obligatory for the appellant to pay pension well in time. It was also obligatory for the appellant to pay interest at the rate envisaged therein which is 12% compound interest for delayed payment. The contention that the respondents would be disentitled to receive any such interest in view of the affidavits submitted by them cannot be relied upon as the same were obtained by the appellant from the respondents on the ground that unless such an affidavit is filed, no pension would be released in their favor. Therefore, having no other alternative, the respondents had executed the aforesaid affidavits. That however would not in any manner disentitle the respondents from getting their statutory dues i.e. payment of the entire arrears due towards pension along with interest.

4. In the above connection the learned Single judge has appropriately referred to and relied upon the decision of the Supreme Court in Civil appeal No. 1598/2005, titled Alok Shankar Pandey v. Union of India. The relevant portion of the said decision, which in our considered opinion clinches the issue, is as under:

It may be mentioned that there is misconception about interest. Interest is not a penalty or punishment at all, but it is the normal accretion on capital. For example, if A had to pay B a certain amount, say 10 years ago, but he offers that amount to him today, then he has pocketed the interest on the principal amount. Had A paid that amount to B 10 years ago, B would have invested that amount somewhere and earned interest on it for this period. Hence equity demands that A should not only pay back the principal amount but also the interest thereon to B.

5. The learned Single Judge on appreciation of the records has held, with which we also agree, that the DTC withheld the pension of the respondents illegally and without any just cause or sufficient reason and Therefore they would definitely be liable to pay compound interest @ 12 % per annum to the respondents on the arrears of pension from the date the said amount became due, till the date of actual payment.

6. In terms of the Pension Scheme floated by the DTC, the employees have the responsibility to leave with the management the contribution of the management

towards their Provident Fund on which interest is earned by the management. In other words, the management earns interest not only on arrears of employees' contribution towards Provident Fund but also on the arrears of pension payable to the employees. This apart, payment of interest is not a bounty nor is in the nature of penalty but a normal accretion of the capital and, Therefore, the respondents are entitled to the same along with interest which has fallen due and payable.

7. We find no ground to interfere with the impugned judgment and order passed by the learned Single Judge. The appeal has no merit and is dismissed. Consequently, the pending applications are also dismissed.