

**(1997) 09 AHC CK 0198**

**In the Allahabad High Court**

**Case No :** Civil Miscellaneous Writ Petition No. 8195 of 1994

Lalta Prasad Tripathi

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

**Date of Decision :** 24-09-1997

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (1998) 2 UPLBEC 1467

**Hon'ble Judges :** O.P. Garg, J

**Bench :** Single Bench

**Advocate :** G.R. Singh and R.N. Singh, for the Appellant;

**Final Decision :** Allowed

## Judgement

O.P. Garg, J.—By means of the present writ petition under Article 226 of . the Constitution, the petitioner has prayed that the respondents be directed to release payment of pension in favour of the petitioner and to pay him the amount of General Provident Fund (for short "GPF") for which he is entitled in accordance with law along with arrears on that account with interest at the rate of 18% per annum.

2. In spite of the fact that sufficient time was allowed to the respondent No. 3 District Inspector of Schools (for short "DIOS"). Varanasi, no counter affidavit has been filed. Heard Sri G.K. Singh, learned Counsel for the petitioner at some length, as well as the learned Standing Counsel.

3. The petitioner Lalta Prasad Tripathi retired from the post of Principal, Maharshi Shivbrat Lal Inter College Radhaswami Dham, Varanasi on 30.6.1991. Consequent upon his retirement, he was entitled to the pensionary benefits and the amount deposited towards the GPF. After completing the necessary formalities, relevant papers were submitted by the DIOS Varanasi, respondent No. 3. The matter concerning pension of the petitioner and the payment of GPF amount was not finalised. Ultimately, the Deputy Director of Education Vith

Region, Varanasi, by his order dated 5.9.1991 sanctioned a provisional pension for a period of six months. The pension of the petitioner was not finalised despite the fact that he was running from pillar to post and made representations to the Deputy Director of Education as well as the concerned Minister of the Department.

4. An interim order was passed by this Court on 16.3.1994 that the respondent No. 1 shall submit the pension papers of the petitioner before the appropriate authority well before the next date fixed.

5. The petitioner has now moved an application on 29.8.1997 along with an affidavit, in which it has been asserted that after filing of the writ petition, the pension of the petitioner has been released by the respondent in the month of June, 1994, i.e. after almost three years of the retirement of the petitioner. The petitioner has claimed interest on the amount, which was paid with delay. The petitioner has also taken the plea that his two increments, to which he was entitled under the law were not given in the year 1987 in respect of which he has made a number of representations and if these two increments, which the petitioner was entitled to receive, are taken account, the amount of pension is required to be re-determined. It is prayed that the respondents be directed to calculate the pension of the petitioner taking into account the two increments and to pay the arrears of salary, along with interest thereon.

6. So far as the ground for calculating pension by addition of two increments, as well as the payment of arrears of salary by raising the pay of the petitioner by two increments is concerned, it cannot be sifted and "thrashed but in this writ petition, under Article 220 of the Constitution as a detailed enquiry and scrutiny of the documents is required to be made to arrive at the conclusion, whether or not the petitioner was entitled to the benefit of two increments in the year 1987 as claimed by him. This aspect of the matter may be considered by the DIOS-respondent No. 3, after perusing the relevant documents and hearing the petitioner. Therefore, this matter is left open for being decided by the DIOS-respondent No. 3.

7. Learned Counsel for the petitioner strenuously urged that for the delayed release of pension, the petitioner is entitled to interest @ 18% per annum. There is no dispute about the fact that the petitioner retired in the year 1991. His pension has been released for the first time in June, 1994. During this long period of three years, the petitioner had been subjected to unwarranted harassment for no fault of his own. As said above he had to run from one office to another to get his legitimate dues, i.e. pensionary benefits released which in the ordinary course, should have been paid to him, as the date of retirement of every employee is pre-known to the employer of the concerned authorities. Besides he unwarranted harassment, the petitioner was unduly deprived of the pensionary benefits for a long period of three years. In spite of various lamentations and directions of this Court in different decision, the position remains unchanged. Without dilating the point any more, suffice it to make a

reference to the various observations made by Hon''ble M. Katju, J. in the case of Mukti Nath Rai Vs. State of Utrar Pradesh and Others, . The petitioner of that case was awarded interest @ 12% per annum of account of delay in releasing the pension. In O.P. Gupta v. Union of India and Ors. (1987) 1 UPLBEC 583, it was observed by the Supreme Court that "normally", this Court, as a settled practice, has been making direction for payment of interest at 12% on delayed payment of pension. Learned Counsel for the petitioner further made a reference to a decision of this Court, decided on 12.8.1994 in Special Appeal No. 540 of 1994, Babu Ram Singh v. Dr. Daljit Singh Puri and Ors., in which interest @ 12% per annum was awarded on the arrears of pension and other retrial benefits. There is no reason to depart from the well established practice of making payment of interest at the rate of 12% per annum on the arrears of pension which was released with delay, in the facts of the present case.

8. In view of the above discussion, the petitioner is entitled to get interest at the rate of 12% per annum on the amount of arrears of pension,

9. The writ petition is allowed with the direction that the respondents shall pay-interest @ 12% per annum for the period 1.7.1991 to 31.5.1994 on the amount of pension, which remained unpaid during the aforesaid period.

10. The DIOS-respondent No. 3 is further directed to consider the representation of the petitioner which may be pending before him or a fresh representation, which may be filed by the petitioner along with a copy of this order about the determination of the pension by addition of two increments in the year 1987 within a period of two months from the date a certified copy of this order and judgment, along with representation, is produced before him, by speaking order after affording opportunity of hearing to the petitioner. In case the DIOS comes to the conclusion that the Petitioner was entitled to receive two increments, as claimed by him, the arrears of pay, resulting on account of rise of salary by addition of two increments and the amount of pension, if there be any hike on the above score, shall also be paid to the petitioner.