

(2018) 04 CHH CK 0349
In the Chhattisgarh High Court
Case No : WPS No. 3369 of 2014

Mrs. Kiranrani Bachan

APPELLANT

Vs

State Of Chhattisgarh And Ors.

RESPONDENT

Date of Decision : 27-04-2018

Acts Referred:

Citation : (2018) 04 CHH CK 0349

Hon'ble Judges : P. SAM KOSHY, J

Bench : Single Bench

Advocate : Aditi Singhvi, Saurabh Dangi, Shashank Thakur

Final Decision : Disposed of

Judgement

1. The limited prayer of the petitioner in the present Writ Petition is for grant of interest on the delayed gratuity payment paid to the petitioner.

2. The facts of the case in brief is that, the husband of the petitioner Late K.K.Bachan was working as a Sub-Engineer in the Public Health

Engineering Department of the State Government. He had died in harness on 17/09/2000. Subsequently, all the other retiral dues were paid to the

petitioner on the death of her husband but for the gratuity amount.

3. The petitioner had filed a Writ Petition on an earlier occasion that was registered as WPS No. 4298/2013. The High Court vide its order dated

19/12/2013 disposed off the Writ Petition with a direction that the case of the petitioner be scrutinized by the High Power Committee of the State

Government (In short "the Committee") dealing with the redressal of pension and retiral dues for retired government employee.

4. The Committee finally vide its decision dated 26/02/2014 held that the petitioner was entitled for gratuity. However, the Committee held that the

petitioner would not be entitled for any interest for the intervening period.

5. The petitioner subsequently preferred a review petition. The review petition also stood rejected by the Committee on 30/05/2014 which led to the filing of the present Writ Petition.

6. The counsel for the petitioner submits that, it is a case where the death of the petitioner's husband took place on 17/09/2000 and the gratuity amount was infact paid to the petitioner only in December-2013. Thus, the petitioner cannot be denied interest on the said delayed payment of gratuity particularly when the delay is of more than 13 years and thus prayed for appropriate relief in this regard.

7. The State counsel however opposing the petition submits that, before the death of the deceased employee, he was subjected to a departmental enquiry and where on an earlier occasion, the enquiry officer had infact reached to the conclusion that few of the charges levelled against the deceased employee stood proved and he was held liable to make good the loss sustained by the department. However, the said enquiry report was not acceptable to the disciplinary authority who in turn had ordered for a fresh enquiry and it was during the pendency of the said enquiry that the employee had expired and therefore based upon the enquiry report submitted by the enquiry officer at the first instance, the respondents were justified in not granting gratuity to the petitioner and if at all if it has to be granted, interest would not be liable to be paid to the petitioner and thus prayed for rejection of the petition.

8. Having heard the contention put forth on either side and on perusal of record, undisputedly on the date of death of the deceased employee, there was no order of punishment in operation against the deceased employee. Neither have the respondents completed the departmental enquiry which was initiated at one point of time against the deceased employee and thus there was no reason or order available with the respondents in not granting the gratuity amount which was otherwise payable to a Government employee.

9. Moreover, the fact that the petitioner was entitled for gratuity stands established from the report of the Committee dated 26/02/2014.

10. Once when the department itself has reached to the conclusion that the petitioner is entitled for gratuity, then the only issue left is, Whether the gratuity which was payable to the petitioner has been timely paid or not?

11. Admittedly, in the instant case, the payment of gratuity has been made in December-2013. The documents revealed that the G.P.O. in respect of releasing of gratuity was issued on 20/12/2013. Thus, there is an admitted delay in payment of gratuity of about 13 years in the instant case.

12. Once when the respondents have themselves dropped all the enquiry proceedings against the petitioner, there was no impediment left for the respondents in releasing the gratuity amount.

13. It further reveals that after dropping of the departmental enquiry, there was no disqualification also as such against the deceased employee with which the respondents could have refused the payment of gratuity or forfeit the interest payable on the said amount.

14. At this juncture, it would be relevant to refer to the judgment passed by this Court in WPS No. 6261/2016 decided on 27/02/2017 wherein this Court relying upon the decision of the Hon'ble Supreme Court in paragraphs 8, 9, 10 & 11 has held as under:-

â??8. It would be trite to refer to the decision of Hon'ble Supreme Court rendered in the case of D.D. Tewari v. Uttar Haryana Bijli Vitran Nigam

Limited & Others [2014 (8) SCC 894], wherein, relying upon the decision in the case of State of Kerala v. M. Padmanabhan Nair [1985 (1) SCC

429], it has been held that the pension, gratuity and retiral dues payable to an employee are not a bounty to be distributed by the Government to its

employees on their retirement but are valuable rights and property in its hands and any culpable delay in settlement or disbursement thereof must be

visited with the penalty of payment of interest. The Supreme Court has very categorically held that denial of interest amounts to miscarriage of justice.

9. Similar view has also been taken by the coordinate Bench of this Court in the case of Punarad Prasad Bhagal v. State of Chhattisgarh & Others,

decided on 18.03.2013 in Writ Petition (S) No. 5231 of 2011, wherein the Court has allowed the said petition under similar circumstances.

10. The view of this Court stands further fortified from the decision of the Hon'ble Supreme Court in the case of State of Uttar Pradesh and Others v.

Dhirendra Pal Singh [2017 (1) SCC 49].

11. Considering the authoritative decisions of Hon'ble Supreme Court in the 5 cases of D.D. Tewari and Dhirendra Pal Singh (Supra), this Court is of

the opinion that it is a fit case where the Petitioner is entitled for interest on the

delayed payment. â??

15. The view of this Court further stands fortified from the recent decision of the Supreme Court in the case of State of Uttar Pradesh & Ors. v.

Dhirendra Pal Singh [2017 1 SCC 49] wherein again it has been reiterated by the Supreme Court that any delayed retiral dues and pensionary benefits

paid by the department would carry interest.

16. Given the aforesaid facts and circumstances of the case, this Court has no hesitation in reaching to the conclusion that in the present case also,

there is an admitted inordinate delay on the part of the respondents in releasing gratuity amount to the petitioner and therefore the petitioner cannot be

put to suffer loss for that intervening period of 13 years during which the petitioner was deprived of the gratuity amount.

17. In view of the same, the amount paid to the petitioner by way of gratuity would also carry interest.

18. It is directed that the respondents shall calculate the interest payable to the petitioner @ 9% per annum from the date of death of the deceased

employee till the date of actual payment being made and the said payment should be made to the petitioner forthwith as expeditiously as possible

preferably within a period of 90 days from the date of receipt of certified copy of this order.

19. The Writ Petition accordingly stands allowed and disposed off.