

**(2005) 04 DEL CK 0013**

**In the Delhi High Court**

**Case No : Writ Petition (Civil) No. 6123 of 1999**

Shri B.M. Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

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**Date of Decision : 21-04-2005**

**Acts Referred:**

**Citation : (2005) 119 DLT 656 : (2005) 82 DRJ 164**

**Hon'ble Judges : Rekha Sharma, J;Dr. M.K. Sharma, J**

**Bench : Division Bench**

**Advocate : G.S. Sandhu, for the Appellant; B.S. Rajesh, for the Respondent**

**Final Decision : Dismissed**

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## **Judgement**

Mukundakam Sharma, J.—The sole issue that arises for consideration in this writ petition is whether or not there could be a direction as sought for by the petitioner herein for payment of interest on the retiral benefits, which were paid by the respondents to the petitioner.

2. The petitioner, while working as an Assistant Engineer, which is a Group "B" post, retired from service with effect from 31.5.1995. However, prior to his retirement, a charge sheet was issued to the petitioner on 29.7.1994 for major penalty. The said departmental proceeding, which was initiated against the petitioner prior to his retirement, was continued even after his retirement and the same was completed some time in the month of September 1995. However, no decision was taken on the said disciplinary proceeding consequent to which the petitioner herein filed a petition in the Central Administrative Tribunal for quashing of the disciplinary proceedings and for direction to the respondents to release the retiral benefits, which were withheld . The said original petition filed before the Central Administrative Tribunal was disposed of by judgment dated 15.10.1996 by issuing a direction to the respondents to pass final order in respect of the disciplinary proceeding within three months. The respondents proceeded to pass a final order in the disciplinary proceeding on 5.12.1996

whereby the charges leveled against the petitioner were dropped and instructions were issued to the respondent No. 3 to pay the settlement dues of the petitioner. In the petition filed on 4.2.1997 before the Central Administrative Tribunal a grievance was raised by the petitioner that despite the fact that he retired from service on 31.5.1995 and that even though the disciplinary proceedings had been dropped and the charges leveled against the petitioner had been dropped by order passed on 5.12.1996, some of his retiral benefits amounting to Rs. 3 lakhs have not been paid.

3. The aforesaid grievance of the petitioner was considered by the learned Tribunal in the light of the records. It was, however, found by the learned Tribunal that the petitioner, while filing the original application, did not come to the court with clean hands. It was also found that the the petitioner suppressed material facts, which were required to be disclosed. The Tribunal also found that the dues stood paid to the petitioner prior to filing of the petition and the only issue that remained to be considered was in respect of payment of interest, which the learned Central Administrative Tribunal declined to award in favor of the petitioner because of his conduct and because he concealed material facts. The said order is under challenge in this petition.

4. Although the petitioner retired from service on 31.5.1995, the departmental proceeding which was instituted and continued against the petitioner on 29.7.1994 came to be finalised only on 5.12.1996 whereby the charges leveled against the petitioner were dropped and instructions were issued for payment of the dues of the petitioner. Consequent to the said order, the retiral benefits as found due and payable by the respondents were paid to the petitioner on 17.1.1997. While, however, making payment of the aforesaid amount, a deduction of an amount of Rs. 63,332/- was made by the respondents against alleged outstanding dues on account of damage rent and electricity bills. However, the fact remains that the amount towards the retiral benefits of the petitioner was paid on 29.1.1997. The amount of Rs. 63,332/- which was recovered by the respondents on account of damage rent and electricity bills was the subject matter of a writ petition before the Punjab and Haryana High Court. The said writ petition filed before the Punjab & Haryana High Court was allowed on 7.10.1997 and immediately thereafter the amount of Rs. 63,332/- was refunded to the petitioner by cheque dated 17.2.1998.

5. It is to be noted at this stage that the original application out of which the present petition arises for consideration was filed in 1997 i.e. prior to the disposal of the writ petition, which was filed before the Punjab & Haryana High Court. When the Original Application was filed, there was not even a whisper that an amount of Rs. 1,95,445/- stands paid to the petitioner by the respondents as retiral benefits on 29.1.1997 and that the amount of Rs. 63,332/- was recovered by the respondents on account of damage rent and electricity bills for which a separate petition was filed before the Punjab & Haryana High Court, which was pending for consideration. All these facts were suppressed. The said facts came

to light only upon the respondents" filing a reply to the main petition when the petitioner immediately sought for amendment. It is thus established that the petitioner did not approach the Tribunal with clean hands. There was suppression of material facts. The learned Tribunal declined to grant interest on account of such concealment of facts and due to the conduct of the petitioner. The said decision of the learned Tribunal cannot be said to be illegal. It is necessary that a litigant should come to the court with clean hands and all the material and connected facts are required to be disclosed and revealed to the court and not even a single material fact should be withheld or concealed from the knowledge of the court. If a party does not come to the court with clean hands and there is concealment of material facts, a petition could even be dismissed. Here the learned Tribunal did not dismiss the petition but only declined to grant interest to the petitioner on the amount of Rs. 63,332/- on the ground of his conduct. The said amount was directed to be paid by the Punjab and Haryana High Court by order dated 7.10.1997. The amount stood paid on 17.2.1998.

6. In the facts and circumstances of this case, we do not find any reason to interfere with the reasoned order of the learned Tribunal. In the facts of this case, the decision of the Tribunal cannot be said to be arbitrary and erroneous. The appeal has no merit and is dismissed.