**(2010) 06 UK CK 0028**

**In the Uttarakhand High Court**

Smt. Parwati Devi APPELLANT

Vs

The Union of India (UOI) and Others RESPONDENT

**Date of Decision :** 03-06-2010

**Acts Referred:**
Criminal Procedure Code, 1973 (CrPC) — Section 191, 340

**Citation :** (2010) 06 UK CK 0028

**Hon'ble Judges :** Tarun Agarwala, J

**Bench :** Single Bench

**Final Decision :** Allowed

## Judgement

Tarun Agarwala, J.—Heard Sri P.S. Bohara, the learned Counsel for the petitioner, Sri J. P. Joshi, the learned Chief Standing Counsel appearing for the Treasury Officer respondent No. 3, Sri Ashish Joshi, the learned Counsel for the State Bank of India respondent No. 4 and Sri V.B.S. Negi, the learned Counsel for the respondent Nos. 1 & 2.

2. A widow of a soldier in the Indian Army has knocked the doors of the High Court seeking a writ of mandamus commanding the respondents to release the ex-gratia amount plus compound interest @ 13 percent per annum pursuant to the Personal Pension Order No. F/BC/13/87 dated 30th August, 1986/21st January, 1987.

3. The facts leading to the filing of the writ petition is, that the petitioner''s husband Tika Singh, a Sepoy in the Kumaon Regiment was killed in action on 22nd March, 1986. The office of Controller of Defence Account (Pension), Allahabad issued a Personal Pension Order (P.P.O.) dated 30th August, 1986/21st January, 1987 with respect to the payment of family pension to the petitioner. Apart from the payment of family pension, it was directed that a sum of Rs. One lakh towards ex-gratia awarded by the Government of India was also to be paid to the petitioner and her father-in-law. The pensionary authority directed the Treasury Officer, Pithoragarh to pay a sum of Rs. 11,354/- in cash to the

petitioner and that the balance amount of Rs. 55,000/- and Rs. 25,000/- would be deposited in a nationalised bank of the choice of claimant for a minimum period of 63 months. The relevant Clause on which this entire petition revolves is contained in Clause N of the P.P.O. dated 30th August, 1986/21st January, 1987. For facility, the said portion is extracted hereunder:

(N) A sum of Rs. 1,00,000/- (Rs. One Lakh only) has been granted on account of Ex-gratia award to the claimant under Govt. Letter No. MF/A/44151/2/AG/ PS4(a)/7836/D/Pen-C dated 10.12.1986 out of Rs. 1,00,000/-, a sum of Rs. 11354.00 (Rs. Eleven thousand three hundred fifty four only) Rs. 20,000 - 8646) may please be paid to widow in cash and rest amount of Rs. 55,000.00 (Rs. Fifty Five Thousand only) to the widow and Rs. 25,000/-(Rs. Twenty Five thousand only) to Bhawan Singh F/o the deceased will be deposited in any nationalised bank of choice of claimant for the minimum period of 63 months or longer if so desired by the beneficiary. Please recover Rs. 2937.00 (Rs. Two thousand nine hundred thirty seven only) on account of debit balance shown in the LPC before making the first payment of D.C.R.G.

4. Pursuant to the P.P.O. order, the Kuman Regiment issued a letter dated 06th February, 1987 to the Treasury Officer disclosing the necessary details and intimating the authority that the pension of the petitioner may be released from the office of the Sub Treasury Officer, Dharchula and that the exgratia amount may be deposited in a fixed deposit in a nationalised bank. It transpires that eventually the first payment of Rs. 15,933/- towards pension was paid by the office of the Sub Treasury Officer, Dharchula on 14.09.1987. At this stage, a sum of Rs. 11,354/-, which was also directed to be paid from the exgratia amount of Rs. 1 lakh, was not paid to the petitioner by the office of the Treasury Officer, Pithoragarh qua Sub Treasury Office, Dharchula. Further, the amount of Rs. 55,000/- in the name of petitioner and Rs. 25,000/- in the name of petitioner''s father-in-law Bhawan Singh was also not deposited in a fixed deposit by the Treasury Office/Sub Treasury Office in a nationalised bank. In this manner, the petitioner, being an illiterate woman, continued to receive pension from the Sub Treasury Office, Dharchula and, eventually, moved an application in the year 1991 for the transfer of her pension to the State Bank of India, Jauljibi, Pithoragarh. The petitioner started receiving the family pension from the State Bank of India since then.

5. Thereafter, the petitioner made enquiries for the release of Rs. 11,354/-, Rs. 55,000/- and Rs. 25,000/- upon maturity of the fixed deposit after 63 months and came to know that the sum of Rs. 11,354/-was not paid, nor the Treasury Office had deposited a sum of Rs. 55,000/- and Rs. 25,000/- in a fixed deposit. At this stage, certain enquiries were initiated and the record indicates that the letters were written by the Kumaon Regiment, where the petitioner''s husband had been serving as a Sepoy, to the C.D.A. (P) Allahabad, the Treasury Officer, Pithoragarh and the Sub Treasury Officer, Dharchula asking about the non-payment of Rs. 11,354/-, the deposit of Rs. 55,000/- and Rs. 25,000/- in fixed

 

deposit. The Sub Treasury Officer, Dharchula by a letter dated 11.06.1992 intimated the bank that a sum of Rs. 11,354/-had not been paid by them and, in response to the said letter, the bank paid a sum of Rs. 11,354/- to the petitioner on 11.06.1992.

6. In so far as the deposit of Rs. 55,000/- in the name of the petitioner, the Sub Treasury Officer informed the bank by a letter dated 13th May, 1994 that no deposit of Rs. 55,000/- in a fixed deposit was made by them and, in this regard, the Sub Treasury Officer, Dharchula issued a certificate dated 13th January, 1995. Further, the Treasury Officer, Pithoragarh issued a letter dated 31.03.1995 to the State Bank of India informing them that for certain reasons, the sum of Rs. 55,000/-could not be deposited.

7. In the meanwhile, based on the complaint made by the petitioner and letters written by the Kumaon Regiment, the C.D.A.(P), Allahabad issued a letter dated 21st August, 1995 to the Director of Treasury, U.P., Lucknow with a carbon copy of it to the Treasury Officer, Pithoragarh intimating that the orders of the C.D.A. (P) had been violated by the Treasury Officer with impunity and that he was solely responsible for the non-deposit of Rs. 55,000/- and Rs. 25,000/- in the fixed deposit and that on account of the non-deposit of the said amount, the Treasury Officer, Pithoragarh was required to pay a sum of Rs. 1,76,000/-towards delayed payment on the aforesaid amount of Rs. 80,000/- for the period of 8? years. The C.D.A. (P), Allahabad also intimated the Branch Manager that the exgratia amount was required to be deposited in a nationalised bank so that the P.P.O. order is not violated any further.

8. In view of the aforesaid correspondence on the subject, it transpires that the bank, eventually, paid a sum of Rs. 55,000/- to the petitioner on 27th May, 1995, but, no interest was paid either by the Treasury Office or by the bank.

9. With regard to the payment of Rs. 25,000/-, the position is the same, namely, that the Treasury Office, Pithoragarh or the Sub Treasury Officer, Dharchula did not deposit this amount of Rs. 25,000/- in favour of the father-in-law of the petitioner in a nationalised bank for 63 months and, eventually, the Treasury Officer intimated the bank in the year 1994/1995 about the non-deposit of the said amount. Inspite of the letter of the C.D.A. (P) dated 21st August, 1995, the bank took no steps to deposit this amount of Rs. 25,000/- in a fixed deposit or release the same in favour of the heirs of Bhawan Singh, who apparently died in the year 1989. Eventually, after some correspondence, the petitioner moved an application dated 24th January, 1997 before the bank for the release of the amount of Rs. 25,000/- annexing an affidavit as well as a certificate of the Gram Pradhan indicating that upon the death of Bhawan Singh, the petitioner was the sole heir to receive the exgratia amount and, consequently, the exgratia amount of Rs. 25,000/-alongwith interest should be released in favour of the petitioner. Based on the aforesaid, certain correspondence was again initiated by the bank with the Treasury Officer, Pithoragarh, Sub Treasury Officer, Dharchula, Kumaon Regiment and the C.D.A.(P), Allahabad. Crucial letters in this regard, is an

 

averment made in paragraph 7 of the supplementary counter affidavit of the State Bank of India which indicates that a letter was written to the C.D.A. Pension, Allahabad seeking necessary directions for the release of Rs. 25,000/-. In response, the C.D.A. (pension), Allahabad by a letter dated 29th January, 1997 reiterated that the Treasury Officer, Pithoragarh was responsible for the non-compliance of the PPO order with regard to payment of exgratia and further instructed the State Bank of India to pay Rs. 25,000/- to the nominee of Bhawan Singh. In response to the aforesaid direction, the bank intimated the C.D.A.(P), Allahabad that there was no nominee of Bhawan Singh recorded in the bank and no fixed deposit was ever made and, accordingly, sought necessary directions. In response to the aforesaid, the C.D.A. (P), Allahabad wrote a letter 27.10.1997 instructing the State Bank of India to take a legal heirship certificate from the petitioner and release the amount. The correspondence from 1997 onwards indicate that the bank took a stand that since there was no nomination of the deceased Bhawan Singh, the amount could not be released to any nominee nor the payment could be made on the basis of the legal heirship certificate and that the PPO order was required to be amended by the C.D.A.(P) and requested the said authority to modify the P.P.O. order nominating a person to receive a sum of Rs. 25,000/-. The correspondence further reveals that the C.D.A. (P) had consistently taken a stand that the P.P.O. order in the name of the petitioner was not required to be amended and that the exgratia amount of Rs. 25,000/- can be released by the bank upon completion of formalities of taking a legal heirship certificate. Since the stalemate continued and the controversy remained unresolved, the petitioner has approached the writ court in March, 2009 praying for the release of the exgratia amount alongwith interest.

10. Twenty three long years have elapsed since the sanction of the exgratia amount in the P.P.O. order dated 30th August, 1986/21st January, 1987. On the face of it, there has been a considerable delay, but, the court entertained the writ petition upon noticing the callous attitude of the respondents and the harassment caused to an illiterate lady who ran from pillar to post to get her due with no result. Admittedly, the petitioner''s husband, while combating with the terrorists, gave up his life for the country. The Government of India sanctioned an exgratia amount to be paid to the widow and father of the soldier. It was a very small amount compared to the life, which the petitioner''s husband had laid down for the country. No amount could compensate the hardship that has been caused by the loss of a dear and near one. What more can be said on this aspect, when the fact spells out that 23 years have elapsed and till date the entire amount of exgratia of Rs. 1 lakh is yet to be released. When will the petitioner reap the benefit of this amount awarded by the Government of India?

11. The court, after entertaining the writ petition, had directed the parties to file a counter affidavit and when the counter affidavit was not found satisfactory, the court had directed the Director, Treasury, Dehradun to conduct an enquiry. The report submitted by the Treasury Officer, Nainital as well as the report submitted by the Director, Treasury is sketchy and an attempt was made to sweep the dust

 

under the carpet but, at this stage, the court directed the State Bank of India and the C.D.A. (P) to file their affidavits. The Treasury Officer, Pithoragarh and the Sub Treasury Officer, Dharchula, Branch Manager of the State Bank of India, Jauljibi were directed to appear in person and produce the original records. Upon a perusal of the original records, some of which has now been made part of the record through supplementary affidavit and supplementary counter affidavit, startling facts came into existence, namely, that Shri Vikram Singh Jantwal, Treasury Officer, Pithoragarh has stated false facts in his short counter affidavit, which amounted to perjury. The officer was accosted with this false statement, which is recorded in the earlier orders of the court and, based on such orders, the officer filed a supplementary counter affidavit alongwith an application to withdraw the short counter affidavit. The supplementary affidavit of the said Officer was taken on record, but, the application seeking permission to withdraw the earlier affidavit was rejected. Thereafter, the said officer filed a detailed parawise reply/counter affidavit, which was also taken on record. The record further reveals that another short counter affidavit of Dhani Ram Chanyal, Sub Treasury Officer, Dharchula was filed which was also taken on record.

12. Some of the facts, which has come on record is from the supplementary counter affidavit filed by the State Bank of India. The bank indicated that in August, 1991 the pension papers were only transferred to the bank and no such direction was issued with regard to the payment of Rs. 11,354/- or for payment of Rs. 55,000/- or for payment of Rs. 25,000/-. In fact, a letter/certificate issued from the office of Sub Treasury Office, Dharchula was enclosed in the pension papers indicating that the petitioner had received Rs. 11,354/-, Rs. 55,000/- and Rs. 25,000/- towards exgratia amount at the time of receiving the first pension in 1987. This letter, which has been brought on record, has been signed by P.S. Dingritoli and Ram Saran Boram as well as by the then Sub Treasury Officer, Dharchula, whose signatures were duly authenticated by the learned Chief Standing Counsel upon the production of relevant registers of the Sub Treasury Office, Dharchula, which disclosed his signatures.

13. On the other hand, the short counter affidavit of Treasury Officer reveals that the stand taken by him, namely, that the part relating to the payment of the exgratia amount as indicated in the P.P.O. was not signed by an authority of the C.D.A. (P) and, therefore, this part for payment of exgratia was never implemented and it was left unpaid and that this portion of the PPO order was treated as null and void. For facility, the said portion of the short counter affidavit of respondent No. 3 is quoted hereunder:

It is relevant to point out here that there were different parts in the said P.P.O. concerned. The I part belonging to the pensionary benefits singed by the competent authority CDA (P), Allahabad was implemented and paid accordingly. The II part of the P.P.O. relates to the copies thereof, it was not signed and not applicable to the respondents. The III part belongs to exgratia payment which was not signed by the competent authority CDA (P), Allahabad; hence, this part was also not applicable to the answering respondents any how and not implemented, which consequented left unpaid and undrawn. Part IV of the P.P.O. relates to RIP (Relief in Pension) was again signed by the P.P.O. - issuing authority and implemented and paid accordingly. Thus, singed parts I in front and Part IV in overleaf were implemented and paid; while as Part II and Part III related to exgratia payment was not signed; hence, not implemented and left unpaid and these parts were treated as null and void by the answering respondents.

14. The said Officer has tried his level best to explain why he took this stand. For facility, paragraph 3 of the supplementary affidavit of respondent No. 3 is quoted hereunder:

That the deponent filed a short counter affidavit and in para 4 of the said short counter affidavit due to some bonafide mistake averment was made in respect to the contents of Second Page of P.P.O. No. F/BC/13/87 which remain unsigned at the space where the work ''A.O.(P)'' has been mentioned, while the signature was put below some typing matter as such the deponent was under apprehension that being the sensitive matter of finance above fact was not clear; due to such apprehension the word ''Null and Void'' was stated which was not relevant and proper but deponent being not legal person and moreover no legal advice was transpired to the answering respondent/deponent that said ''Null and Void'' word is not proper and relevant as such because of this reason, the word ''Null and Void'' was typed in Para 4 of said short counter affidavit for which the deponent tenders unconditional apology and as such the short counter affidavit is being withdrawn and following reply/averments are being submitted as under.

15. In the detailed counter affidavit, the said Treasury Officer took a stand that the order for exgratia amount could not be implemented since the petitioner did not give a choice of the bank where the amount could be kept in a fixed deposit. In paragraph 8 of the detailed counter affidavit, it was stated that the papers of the petitioner in respect of pension and exgratia had been forwarded to the State Bank of India vide letter dated 24th June, 1991/11th July, 1991. This paragraph has been sworn on the basis of record, but, the same has been found to be incorrect in as much as the letters produced by the bank with regard to the transfer of pension of the petitioner was only confined to pension. Further, a letter was signed by two witnesses as well as by the Sub Treasury Officer, Dharchula indiating that exgratia payment has already been paid to the petitioner at the time of the first payment of the pension in the year 1987.

16. In the light of the aforesaid factual controversy, the factual position which can be reiterated in a nutshell is, that the petitioner did not receive Rs. 11,354/-, Rs. 55,000/- and Rs. 25,000/- towards exgratia at the point of time when it should have been paid to her. The petitioner again and again approached the authorities and, eventually, filed the present writ petition. The short counter affidavit, supplementary affidavit and the detailed counter affidavit of the Treasury Officer reveals that the portion of the P.P.O. order relating to payment

 

of exgratia was not implemented and it was left unpaid as it was not signed by any Officer and this part was treated as null and void. Subsequently, the Officer has withdrawn the stand and contended that the averments made in paragraph 8 of the short counter affidavit was made under a bonafide mistake and that no legal advice was given to him, which led him to make such an averment. The respondents then contended that since the petitioner did not give a choice of a nationalised bank, the portion of the relating to exgratia was not implemented. The respondents contend that since the papers were transferred in the year 1991, they were not liable to pay any interest. Similarly, the State Bank of India also submitted in their short counter affidavit that they received the papers in the year 1991 only with regard to the payment of pension and, upon a complaint being made by the petitioner, enquiries were made and eventually Rs. 11,354 was paid on 11th June, 1992 and Rs. 55,000/- was paid in the year 1995 and that a sum of Rs. 25,000/- has not been paid.

17. In the light of the aforesaid position, the submission of the learned Chief Standing Counsel that the petitioner is not entitled for any relief as she has approached the court belatedly is bereft of merit. The decisions cited by the learned Chief Standing Counsel in the case of Panchi Devi Vs. State of Rajasthan and Others, and City and Industrial Development Corporation Vs. Dosu Aardeshir Bhiwandiwala and Others, has no application whatsoever. At the outset, the Court could not throw out the petition on the ground of laches. The amount sought to be claimed by the petitioner under the P.P.O. order is not barred by limitation. It is not a simple case of recovery, which is limited by the law of limitation. This is not a bounty, but, a fundamental right to claim the exgratia amount sanctioned by the Government for which there is no limitation. Consequently, the claim of the petitioner survives and to that aspect, the writ petition is maintainable.

18. The court, by an investigative procedure, which it adopted, and upon perusing the correspondence made by the petitioner, by the regiment of the petitioner''s husband, by the bank and by the C.D.A. (P) finds, that the Treasury Office, Pithoragarh and the Sub Treasury Officer, Dharchula kept silent in the entire episode and slowly by slowly revealed certain information. A clear case of callousness and denial of any liability is culled out from their affidavits as well as from the record that has been produced before the court. The State respondents does not own any responsibility and, on the other hand, they have taken a belligerent stand that they are not responsible for payment of exgratia or for payment of interest on it. The respondent, namely, the Treasury Officer, has nowhere stated as to why they could not pay Rs. 11,354/- to the petitioner. They could not indicate as to why the amount was not kept in fixed deposit in a nationalised bank inspite of the direction given by the Kumaon Regiment vide its letter dated 06.02.1987. When all these things were found out, the court in order to do complete justice, cannot throw out the petition on the ground of laches and cannot allow the State respondents to get away with this misdemeanor on a technicality. The court is aghast by the stand adopted by respondent No. 3.

 

Consequently, the objection of the learned Chief Standing Counsel that the writ petition should be thrown out on the ground of laches is patently misconceived and is rejected.

19. From the affidavit of respondent Nos. 2, 3 & 4, it is clear that a sum of Rs. 11,354/-, which is a part of the exgratia amount was required to be paid in cash to the petitioner. This amount was not paid by the Treasury Officer, Pithoragarh or by the Sub Treasury Officer, Dharchula at the time when the first payment towards pension was made nor was paid till the pension papers was transferred to the bank in the year 1991. No explanation whatsoever has been given by the respondent No. 3. Consequently, they are responsible for the payment of interest. During the course of the hearing, the court requested the Branch Manager, State Bank of India, High Court Branch, Nainital to calculate the amount of interest that would be payable on this amount of Rs. 11,354/- @ 8 percent per annum on compound basis, for the period August, 1987 to June, 1992. The bank has calculated that an interest of Rs. 4863/- would be payable to the petitioner on the said amount of Rs. 11,354/-. Accordingly, the court directs that the respondent No. 3 will pay the aforesaid interest of Rs. 4863/- to the petitioner within two months from the date of the production of certified copy of this order.

20. With regard to the payment of Rs. 55,000/-, the court finds that no F.D.R. was made by the Treasury Officer, Pithoragarh/Sub Treasury Officer, Dharchula as per the P.P.O. order. The letter of the Kumaon Regiment dated 06.02.1987 to the Treasury Officer, Pithoragarh clearly indicated that the Treasury Officer was requested to make a fixed deposit in a nationalised bank. But this was not done by the respondent No. 3. Even assuming that the petitioner had not given her choice of a nationalised bank, even then the responsibility was upon the Treasury Officer to keep this amount in a fixed deposit, which has not been done. Further, there is nothing to indicate that any letter or intimation was made by the Treasury Officer to the petitioner requiring her to give a choice of the bank so that the exgratia amount could be kept in the fixed deposit. In the absence of any averment made in the nature and, in the light of the letters written by the C.D.A. (P) dated 21st August, 1995 and other letters, it is clear that the Treasury Officer, Pithoragarh was responsible to implement the P.P.O. order in letter and in spirit. This has not been done. The explanation given by the Treasury Officer, Pithoragarh in his short counter affidavit, in the supplementary affidavit and in the detailed counter affidavit is contradictory, quite apart from the fact that the false averments have been made. Consequently, as per the letter of the C.D.A. (P), interest of Rs. 1,76,000/- is liable to be paid on the unpaid amount of Rs. 80,000/- namely Rs. 55,000/- plus Rs. 25,000/- for 8 years six months @ 13 percent per annum. This Court finds that the said letter was duly received by the Director, Treasury, Lucknow as well as by the Treasury Officer, Pithoragarh. This letter has not been denied by the respondent No. 3 nor any explanation has been given as to why the order of C.D.A. (P) is incorrect. Consequently, this Court is of the opinion that from 1987 to year 1995, the respondent No. 3 is liable to pay

 

Rs. 1,76,000/- towards interest on Rs. 80,000/-. Inspite of the direction of the C.D.A. (P), this amount has not been paid till date and from 1995 to 2010 another 15 years have elapsed. The record indicates that a series of correspondence on this subject for payment of interest has been made and that there is no response from respondent No. 3 at any stage. This Court is, therefore, of the opinion that the respondent No. 3 is further liable to pay compound interest @ 8 percent per annum on Rs. 1,76,000/- for the period 1995 to 2010. The Branch Manager, SBI, High Court Branch, Nainital has calculated the amount at Rs. 4,01,462/- for the period 1995 to 2010. Consequently, on account of non-payment of Rs. 80,000/-, the respondent No. 3 is directed to pay Rs. 1,76,000/- plus Rs. 4,01,462/-, i.e. a total amount of Rs. 5,77,462/- to the petitioner within two months from the date of production of a certified copy of this order.

21. This leads to third amount, namely, payment of Rs. 25,000/-towards exgratia in the name of the petitioner''s father-in-law Bhawan Singh. Admittedly, again this amount was not deposited in a fixed deposit by the Treasury Officer, Pithoragarh/Sub Treasury Officer, Dharchula. The respondent No. 3 is liable to pay interest on this amount till 1995 which has been calculated by the C.D.A. (Pension) in its letter dated 21st August, 1995. A clear cut direction was issued to the State Bank of India to deposit the exgratia amount in a fixed deposit. This was not done by the Bank. The petitioner formally applied for payment of this amount on 24th January, 1997 annexing an affidavit and certificate of the Pradhan to the effect that she is the sole heir of the deceased father-in-law. The correspondence reveals that inspite of a clear cut direction of the C.D.A. (P) through various letters to release the amount upon receiving a legal heirship certificate and upon clear cut instructions that the P.P.O. order was not required to be amended, the bank unnecessarily kept on corresponding with the CDA (P) and with Kumaon Regiment and did not make any effort to keep this amount in a fixed deposit or to release the amount in favour of the petitioner. Consequently, this Court finds that the bank is responsible for non-release of Rs. 25,000/- from 1997 onwards. Consequently, from 1997 to till 2010, the Branch Manager, SBI, High Court Branch, Nainital has calculated an interest amounting to Rs. 45,000/- on the said amount of Rs. 25,000/-. Admittedly, the father-in-law of the petitioner had died in the year 1989. There has been no fixed deposit and, consequently, there has been no nomination. The legal heirship certificate has not been taken by the bank till date from the petitioner. The court finds that the petitioner should not be relegated in approaching the civil court to obtain a succession certificate at this stage. Much water has flown since and the court is of the opinion that since the petitioner has already given an affidavit that she is the sole heir of the father-in-law, Bhawan Singh, the bank in order to indemnify itself from any other claimant, which may or could arise in future, will release the amount after obtaining an indemnity bond from the petitioner. Accordingly, the court directs the bank to pay an amount of Rs. 70,000/- (Rs. 45,000/-plus Rs. 25,000/-) to the petitioner within two months from the date of production of a

 

certified copy of this order. The amount of Rs. 25,000/-would be debited to the CDA (P) account and payment of interest would be paid by the bank.

22. This exercise of calculation of interest was done by the court so that no room is left to the respondents to calculate the interest accordingly to their own rates and according to their whims and fancies. The court was also of the opinion that the matter should come to a rest finally once and for all and, accordingly, took the task of calculating the interest, after taking help from the Branch Manager of the SBI, High Court Branch, Nainital.

23. On the question of perjury committed by respondent No. 3, the then Treasury Officer, Vikram Singh Jantwal, the court finds that in paragraph 4 of the short counter affidavit, that the officer has stated, on the basis of record, that the portion of the P.P.O. order relating to payment of exgratia could not be implemented as the said portion was not signed by an authority and it was left unpaid and the said portion was treated as null and void. This statement made on an affidavit is a false statement. As per Section 191 Code of Criminal Procedure, the said Officer has given false evidence. This fact is born out from the supplementary affidavit filed by the Director, Treasury Officer, wherein it is clearly indicated that the portion relating to payment of exgratia amount was implemented and that a sum of Rs. 2,937/- was deducted from the pension amount while making first payment of pension to the petitioner in year 1987. Consequently, in my opinion, false facts has been stated on oath. The said Officer has made an irresponsible statement without verifying the record and has behaved like a petty litigant. The Officers of the State Government are required to act fairly and state correct facts on the basis of the record and are not required to behave like a petty litigant. By behaving in such manner, an irresistible conclusion is drawn, namely, that such statement was made deliberately in order to avoid the fixing of responsibility for the non compliance of the P.P.O. order. This Court further finds that the Officer has again made a false statement in paragraph 8 of the detailed counter affidavit wherein he has made an averment that the pension and exgratia papers was forwarded to the State Bank of India, Jauljivi Branch vide letter dated 24.06.1991/11th July, 1991. This fact has been sworn on the basis of the record. The Treasury Officer, Pithoragarh or Sub Treasury Officer, Dharchula could not produce any record to show that the exgratia amount was transferred to the bank. On the other hand, the bank has produced a letter, which they had received from the Sub Treasury Officer, Dharchula, which indicates that only pension papers were forwarded. Further, the bank has enclosed a letter duly signed by the Sub Treasury Officer indicating that exgratia payment had already been paid to the petitioner at the time of the first payment of pension. This letter clearly indicates that only pension papers were forwarded. Consequently, the said officer has stated false averments in paragraph 8 of the detailed counter affidavit.

24. Considering the aforesaid facts, a clear case of perjury is made against respondent No. 3 Vikram Singh Jantwal. This Court has given serious thought on

 

this aspect and has pondered over the matter and is of the opinion that since the Officer is a young person and has a long career in the Government service, it would not be appropriate to abrupt his career at this stage by an issuance of a complaint u/s 340 of the Code of Criminal Procedure. It would be appropriate, if this order is sent by the Registrar General to the competent authority for appropriate action against respondent No. 3, namely, Vikram Singh Jantwal. The Registrar General is accordingly directed to send a certified copy of this order to the Chief Secretary of the Government of Uttarakhand, who in turn will pass appropriate orders, after giving adequate opportunity to the officer concerned or may remit the matter to the competent authority. Such orders, in any case, would be passed within two months from the date of receipt of the certified copy of this order, information of which would be sent to the High Court. The writ petition is allowed in terms of the aforesaid directions.

 