

(2018) 02 DEL CK 0335

In the Delhi High Court

Case No : Civil Writ Petition No. 1261 Of 2018, Civil Miscellaneous No. 5271 Of 2018

Vijay Pal Singh

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 12-02-2018

Acts Referred:

Central Civil Services (Pension) Rules, 1972 — Rule 14, 16, 68(1)(2), 69(1)(c)

Citation : (2018) 02 DEL CK 0335

Hon'ble Judges : Hima Kohli, J;Pratibha Rani, J

Bench : Division Bench

Advocate : Om Prakash, Bharathi Raju

Final Decision : Dismissed

Judgement

1. The petitioner is aggrieved by the order dated 19.08.2017, passed by the Tribunal in O.A. No.4058/2016, filed by him for issuing directions to the

respondents to pay him interest @ 12% per annum on the delayed payment of gratuity released to him.

2. The facts of the case as set out in the O.A. are that the petitioner had joined the respondent/CPWD as a Junior Engineer on 01.04.1977 and was

promoted to the post of Assistant Engineer on 25.02.2002. On 26.06.2003, an FIR was lodged against the petitioner on the complaint of one

Mr.R.D.Gupta. Based on the said FIR, respondent No.2/CPWD had issued a charge sheet dated 26.09.2013 against the petitioner, proposing to

impose upon him a major penalty. The said charge sheet was issued to the petitioner four days short of the date of his retirement. The petitioner

submitted a reply to the charge sheet on 04.10.2013, stating inter alia that the disciplinary proceedings may be dropped as the FIR lodged against him

was false. Despite that, on 11.02.2014, respondent No.2/CPWD appointed an Inquiry Officer to inquire into the charges framed against the petitioner

who finally submitted his report on 15.07.2014, stating inter alia that the charges levelled against the petitioner could not be proved.

3. Respondent No.2/CPWD forwarded the report of the Inquiry Officer to the petitioner vide order dated 15.10.2015, for making a representation, if

any. The learned Additional Sessions Court set aside the criminal case against the petitioner on 01.11.2014. One year thereafter, on 12.11.2015, the

departmental proceedings against the petitioner were finally dropped and on 18.03.2016, the respondent No.2/CPWD released the gratuity in favour of

the petitioner.

4. On 08.09.2016, the petitioner made a representation to the respondent/CPWD stating inter alia that he is entitled to claim interest on the withheld

amount of gratuity of `10 lacs, from the date of his retirement, till the date of the actual payment i.e. from 30.03.2013 to 18.03.2016. When the

respondent No.2/CPWD rejected the petitioner's representation, he approached the Tribunal by filing O.A. No.4058/2016, which has been

dismissed by the impugned order dated 19.08.2017.

5. The respondents opposed the prayer made by the petitioner and relied on the provisions of Rule 69 (1) (c) of the CCS (Pension) Rules, 1972, to

urge before the Tribunal that till the departmental proceedings were pending against him, the gratuity amount could not be released and immediately

after a decision was taken to close the departmental proceedings on 15.10.2015, the gratuity was released to the petitioner on 18.03.2016, which was

within a reasonable time and could not attract any interest.

6. On examining the stand taken by the respondents, the Tribunal observed that though it is provided in Rule 69 (1) (c) of the CCS (Pension) Rules,

1972, that gratuity is payable to a Government servant on the conclusion of the departmental proceedings, the said provision would not apply in this

case as the departmental proceedings against the petitioner were not initiated under Rule 16 of the CCS/CCA Rules as contemplated in Rule 69 (1)

(c), but under Rule 14 of the CCS Rules.

7. Further, the Tribunal pointed out the error on the part of the respondent in mis-quoting Rule 68 (1) (2) of the CCS (Pension) Rules, 1972, in their

counter-affidavit and observed that the extracted portion reproduced in para No.

8 of the counter-affidavit is not the said Rule but forms a part of the

Government of India's decisions dated 11.07.1979 and 10.01.1983, which states as under:

2. Where disciplinary or judicial proceedings against a Government servant are pending on the date of his retirement, no gratuity is

paid until the conclusion of the proceedings and the issue of the final orders thereon. The gratuity if allowed to be drawn by the Competent

Authority on the conclusion of the proceedings will be deemed to have fallen due on the date of issue of orders by the Competent

Authority.

8. Referring to the aforesaid decision, the Tribunal observed that the petitioner was not able to point out any specific provision where interest has to be

paid on release of delayed gratuity in circumstances where departmental inquiry/judicial proceeding were pending against an employee and gratuity

was released after conclusion of the said departmental/criminal proceedings. For this, reliance was also placed on the decision of the Supreme Court

in the case of R.Veerbhadrar vs. Govt. of A.P. [(1999) 9 SCC 43]. As a result, the delay in this case was not found to be so inordinate as would

entitle the petitioner to interest.

9. The Tribunal concluded that the respondent is empowered to withhold the gratuity in certain circumstances and the fact situation of this case did

permit the respondent No.2/CPWD to withhold the gratuity payable to the petitioner. In those circumstances, the employer was not liable to pay any

interest to the petitioner on the withheld amount.

10. Having gone through the impugned judgment and the Rule position, particularly, Government of India's decisions dated 11.07.1979 and

10.01.1983, as quoted in para 5 of the impugned judgment, we are of the opinion that there does not appear any illegality or infirmity in the said order.

11. Accordingly, the present petition is dismissed in limine, along with the pending application.