

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **WRIT PETITION (CIVIL) NO. 2175 OF 2008**

Reserved on : March 18, 2008.

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Date of Decision: March 31, 2008

Govt. of NCT of Delhi
Through Directorate of Education
!

..... Petitioner

Through - Mr. V.K. Tandon, Advocate

versus

\$ Shri Bhagwan Singh Gautam

..... Respondent

^

Through - Nemo

CORAM:

* **HON'BLE MR. JUSTICE MANMOHAN SARIN**

* **HON'BLE MR. JUSTICE MANMOHAN**

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| 1. Whether Reporters of local papers may be allowed to see the judgment? | No |
| 2. To be referred to the Reporter or not? | Yes |
| 3. Whether the judgment should be reported in the digest? | Yes |

J U D G M E N T

MANMOHAN, J:

1. The issue that arises for consideration in the present writ petition is whether interest is payable on delayed payment of pensionary dues.

2. Briefly stated the material facts for this case are that on 5th February, 1993, full pensionary benefit amounting to Rs.1,16,976/- were payable to the Respondent. However, the first payment of pensionary benefits was released to the Respondent only on 3rd August, 1993, while the second, third and fourth payments were made from 2004 onwards and the last one on

22nd June, 2006. From the facts narrated in paras 2 and 3 of the impugned judgment of the Tribunal it is apparent that the petitioner had taken 9 years to complete various formalities before the first pensionary benefit was released on 3rd August, 1993 and thereafter the arrears in calculation had to be pursued by the Respondent with various departments of the Petitioner including its Public Grievance Commission over an extended period of time before all the pensionary benefits could be released.

3. The Petitioner has neither before the Central Administrative Tribunal nor before us expressed any objection either to the calculation or the amount and the rate of interest as claimed by the Respondent over the outstanding pensionary benefits. However, the only submission of the Petitioner is that there is no provision in the Central Civil Services (Pension) Rules, 1972 for payment of interest on delayed payment of pension and commuted value of pension and as such the Respondent could not have been granted any interest by the Tribunal.

4. It is pertinent to mention that in the Central Civil Services (Pension) Rules, 1972, there is no Rule or provision which prohibits the grant of interest as claimed by the Respondent. In fact, Rule 68 of the said Rules provides for payment of interest on delayed payment of gratuity. Rule 3 of the said Rules, at sub-clause (1)(o), provides that unless the context otherwise requires, pension includes gratuity. The Hon'ble Supreme Court in *Union of India and others vs. G. Anayutsam (dead) by L.Rs.* reported in **1997 (5) SLR (SC) 298** has held that for the purposes of Rule 9 of the said Rules, pension must be construed to include gratuity. Consequently, in our view, the principle and rate of interest as stipulated in Rule 68 would apply with equal vigour to outstanding pensionary dues.

5. The Hon'ble Supreme Court in a catena of cases has held that pension is akin to property and is not a bounty or charity. It has further been held that pension is not only compensation for loyal service rendered in the past but it is also a measure of socio economic justice which inheres

economic security in the fall of life when physical and mental prowess is ebbing corresponding to aging process and, therefore, one is required to fall back on savings. According to the Hon'ble Supreme Court the discernible purpose underlying the pension scheme or Rules must inform the interpretive process and accordingly it should receive a liberal construction and the courts cannot so interpret such a statute or Rules as to render them inane.

6. The Tribunal in its impugned judgment has referred to a large number of judgment and orders passed by the Tribunal itself wherein interest has always been awarded on delayed payment of pensionary benefits. Even in our Hon'ble High Court the practice has been to award interest on delayed release of pensionary benefits. In this connection, we may refer to *Delhi Transport Corporation vs. K.K. Berry and others* reported in **2006 (IX) AD (Del.) 778**, *Chhammi Lal vs. MCD* reported in **2001 (94) DLT 148**. We may also mention that in a catena of cases it has been held that interest is nothing but compensation granted for delay in making payments to a person who has a right to receive it prior in time.

7. In the present case, since we find that the Petitioners had arbitrarily withheld payment of pension and the same was released on piecemeal basis to the Respondent over a period of many years, it would be unfair and unreasonable to deny interest to the Respondent on the withheld pensionary benefit. Consequently, the present writ petition is dismissed in limine but with no order as to costs.

[MANMOHAN]
Judge.

[MANMOHAN SARIN]
Judge.

March 31, 2008.
jt.