

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

ORDER

S.B. CIVIL WRIT PETITION No.296/2006.

: :

A.B.L.Srivastava Vs. The Cantonment Executive Officer.

: :

Date of Order 27.2.2009

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Mr. Ashish Saksena for the petitioner.
Mr. Vivek Goyal for the respondent.

Heard learned counsel for the parties.

This writ petition has been filed with the prayer that the respondents be directed to pay him interest @ 18% per annum for delay in making payment of retiral dues.

The petitioner was appointed as Sanitary Inspector on 9.6.1969 and reited on 31.7.2002. Payment of his retiral dues was made with enormous delay on 26.12.2003 and the payment of GPF was made to the petitioner in September, 2002 and gratuity and commutation was paid on 26.12.2003.

Learned counsel for the petitioner submitted that delay in making all these payments belatedly for the reason of the charge-sheet dated 21.12.1994 to which he submitted reply within two days. After consideration of reply vide

resolution dated 31.3.1995, an Enquiry Committee was appointed to enquire the charge by the said resolution. Learned counsel then invited attention of the Court towards subsequent resolution of the Board dated 11.7.1995 wherein the Board noticed that Enquiry Committee has not yet been commenced the proceedings and request the Committee to expedite their findings. Learned counsel submitted that the petitioner submitted representations, but when nothing was done he further represented to the Chief Executive Officer to expedite his enquiry because his approaching retirement. He again submitted representations on 3.1.2000, 11.9.2001 followed by yet another representation dated 18.6.2002. Petitioner on attaining age of superannuation retired on 31.7.2002 even the petitioner submitted representations on 25.9.2002 requesting them for payment of retiral benefits. Petitioner submitted yet another representation on 17.5.2003 requesting that more than nine months have gone by and so far he has received not retiral dues. Learned counsel for the petitioner submitted that after so much delay the respondents passed resolution Annexure-R/2 dated 18.8.2003 deciding to make payment of retiral dues of the petitioner and nothing was said with regard to pending of enquiry. Learned counsel submitted that petitioner should be

held entitled to interest for the delay.

Learned counsel for the respondents opposed the writ petition and submitted that resolution was passed on 18.8.2003 taking humanitarian approach but then this resolution cannot be taken as decision. The enquiry could not be completed due to non-cooperation of the petitioner.

Having heard the learned counsel for the parties and perused the material on record, I find that respondents in reply to the writ petition have not given any specific details as to in what manner the petitioner did not cooperate and nothing was said of the proceedings after the Enquiry Committee was appointed. Nothing has been said when notice of enquiry was given to the petitioner and whether the petitioner avoided to participate in the enquiry. Submissions in this regard are absolutely vague. Charge-sheet was served upon the petitioner on 21.12.1994. He filed reply thereto within two days. Enquiry Committee was appointed on 31.3.1995 and the Enquiry Committee has not proceeded any further for last 14 years out of which seven years were such when the petitioner was in service. In all these circumstances, the petitioner cannot be held responsible for delay.

In the result, this writ petition is allowed. The respondents are directed to pay to the petitioner interest @ 6% per annum for the payment of delay only with regard to payment of gratuity and commutation that was paid to the petitioner on 26.12.2003.

Compliance of the judgment be made within three months from the date its copy is produced before the respondents.

(MOHAMMAD RAFIQ)J.

A.Arora/-
Item No.S/1.