

Before I. S. Tiwana, J.

R. S. SEHGAL,—Petitioner

versus

THE UNION OF INDIA AND ANOTHER,—Respondents.

Civil Writ Petition No. 4305 of 1983

March 22, 1985

Constitution of India 1950—Article 226—Government employee compulsorily retired—Retirement order declared void and the employee held entitled to all consequential reliefs—Payment of financial benefits delayed—Such employee—Whether entitled to interest on delayed payments.

Held, that though from the order of the Court setting aside the order of premature retirement, the authorities were under an obligation to pay to the petitioner the amounts along with interest for the period for which the said amounts had been withheld by the authorities, yet the authorities can even now be directed to grant this relief in exercise of the equitable jurisdiction of the High Court.
(Para 3).

Civil Writ Petition under Articles 226/227 of the Constitution of India praying that:—

- (i) that an appropriate writ, declaring that the petitioner whose rightful dues had been illegally, malafide and arbitrarily withheld by the respondents, is entitled as of right to be suitably compensated by the Central Government and is also entitled to the payment of interest at the current rate, be issued;
- (ii) that a writ in the nature of mandamus directing the respondents to pay the interest to the petitioner on the current rate on the dues which were withheld for a period of 15 years and also suitable compensation in the shape of damages, be issued;
- (iii) any other suitable writ, order or direction as this Hon'ble Court may deem fit and proper in the circumstances of the case, be issued;
- (iv) that the costs of the writ petition be awarded to the petitioner.
- (v) that the filing of certified copies of the documents be dispensed with;

Kuldip Singh, Senior. Advocate with R. S. Mongia, Advocate, for
the Petitioner.

Ashok Aggarwal, Advocate, for the Respondent.

JUDGMENT

I. S. Tiwana, J. (oral)

(1) The petitioner was compulsorily retired by the Government of India on November 15, 1969, from the post of Superintendent, Post Office, at Gurdaspur. He successfully impugned this order before the Delhi High Court. The said Court while setting aside the order of his retirement on January 4, 1983, concluded its order in the following manner :—

“The departmental proceedings together with the impugned order are declared void and are set aside. The petitioner would be entitled to all the consequential reliefs, financial and otherwise. All the said benefits should be restored to the petitioner within 2 months from today. Since the petitioner had now retired, his pension papers will also have to be finalised quickly.”

In pursuance of this order, the respondent authorities admittedly made the following payments to the petitioner to satisfy his claim :—

Period	Gross amount	Deductions on account of pension and income tax	Net amount paid	Date of payment
19-11-69 to 19-4-76	70,858.40	40,506.40	30,352	30-12-1981
20-4-76 to 19-4-79	47,682.80	..	47,682.80	10-2-82
20-4-79 to 31-3-80	17,057/-	..	17,057	15-9-1981
1-4-80 to 19-3-81	9,658.40	..	9,658.40	10-2-82

(2) The stand of the petitioner now is that since he all through had wrongfully and unjustifiably been deprived of the amounts which were legitimately due to him the respondent authorities were bound to pay the above mentioned amounts with interest. According to him, this relief is implicit in the order of the Delhi

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High Court the operative part of which has already been reproduced above and in any case this Court being a Court of equity also be pleased to command the respondent authorities to pay the said amount of interest even now. In support of this stand of his, his learned counsel, Mr. Kuldip Singh, relies on an earlier judgment of mine in (*Des Raj Pahwa v. The State of Punjab*) (1).

(3) Having heard the learned counsel for the parties at some length, I find that the claim of the petitioner is not devoid of merit. Though I am of the opinion that in view of the above noted judgment of the Delhi High Court the respondent authorities were under an obligation to pay to the petitioner the amounts detailed above along with interest for the periods for which the said amounts had been withheld by the authorities, yet I am of the considered view that even at this stage the respondents can be directed to grant this relief to the petitioner in exercise of the equitable jurisdiction of this Court. In a similar situation in *Des Raj Pahwa's* case (supra) I had granted the payment of interest at the rate of 12 per cent on the amount payable to the petitioner as arrears of pay, etc.. Today, yet another authoritative pronouncement of the Supreme Court in *State of Kerala and others v. M. Padmanabhan Nair*, (2), has been brought to my notice by the learned counsel for the petitioner wherein the final Court has made the following meaningful observations in the context of delayed payment of gratuity and pension to the retiree-plaintiff. He had retired on May 19, 1973 and his pension and gratuity were paid on August 14, 1975, i.e., more than two years and three months after his retirement. While upholding the recovery of interest on the amount of gratuity and pension by way of liquidated damages on account of the delayed payment, the Supreme Court observed thus :—

“Pension and gratuity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment.

* * * *

4. Unfortunately such claim for interest that was allowed in respondent's favour by the District Court and confirmed by the High Court was at the rate of 6 per cent

(1) C.W. 436 of '82, decided on 19th February, 1985,

(2) A.I.R. 1985 S.C. 356.

per annum though interest at 12 per cent had been claimed by the respondent in his suit. However, since the respondent acquiesced in his claim being decreed at 6 per cent by not preferring any cross objections in the High Court it would not be proper for us to enhance the rate to 12 per cent per annum which we were otherwise inclined to grant."

These observations, to my mind, apply with full force to the facts of the instant case; more so in the light of the conclusion recorded by the Delhi High Court as reproduced above.

(4) I thus allow this petition and direct the respondent authorities to pay interest to the petitioner at the rate of 12 per cent on the above noted amounts for the period the said amounts were withheld by those authorities, within a period of four months from today. The petitioner is also held entitled to the costs of this petition which I determine at Rs. 500.

N. K. S.

Before M. M. Punchhi, J.

KUNDAN LAL SHARMA,—*Petitioner.*

versus

THE STATE OF PUNJAB,—*Respondent.*

Criminal Revision No. 10 of 1985

March 29, 1985

Prevention of Corruption Act (II of 1947)—Sections 2 and 5(1)(d)—Indian Penal Code (XLV of 1860)—Sections 21, Clause Twelfth, 120-B, 420, 467, 468 and 471—Companies Act (I of 1956)—Sections 2(7) and 617—Banking Companies (Acquisition and Transfer of Undertakings) Act (V of 1970)—Sections 3 and 7—Employees of a nationalised bank prosecuted under section 5 of the Corruption Act—Such employee—Whether a public servant within meaning of Section 21, Indian Penal Code—Legal status and character of a nationalised bank—Such a bank—Whether a Corporation established by or under a Central Act.

Held, that when the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 envisaged for each new corresponding bank a Board of Directors, whether the first Board of