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

***Date of decision: 06.08.2025***

+ W.P.(C) 5537/2025  
UNION OF INDIA & ORS. ....Petitioners  
Through: Mr.Vineet Dhanda, CGSC,  
Ms.Akansha Choudhary, Adv.

versus

VIJAY KUMAR GUPTA .....Respondent  
Through: Nemo

**CORAM:**  
**HON'BLE MR. JUSTICE NAVIN CHAWLA**  
**HON'BLE MS. JUSTICE MADHU JAIN**

**NAVIN CHAWLA, J. (ORAL)**

**CM APPL. 25180/2025 (Exemption)**

1. Allowed, subject to all just exceptions.

**W.P.(C) 5537/2025**

2. This petition has been filed by the petitioners, challenging the Order dated 29.05.2023 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. No. 1965/2019, titled ***Vijay Kumar Gupta v. Union of India & Ors.***, whereby the learned Tribunal allowed the said O.A. filed by the respondent herein, with the following directions:

*"6.2 In view of the aforesaid discussions, the following are ordered:-*

*a) The respondents are directed to pay the leave encashment dues to the applicant forthwith. They are further directed to pay*



*interest at applicable GPF rates from the date of retirement till the date of such payment.\*

*b) The respondents are directed to relook into the matter regarding withholding gratuity to the applicant in view of the judgments cited by the counsel for the applicant and the observations by this Tribunal.*

3. The respondent was initially appointed as a Junior Engineer in the Central Public Works Department (CPWD). While in service, the CBI registered RC No. DA1-1998-A-0023 dated 25.03.1998 under Sections 120-B, 420, 468, and 471 of the Indian Penal Code, 1860 (IPC), Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988, and Section 9-B of the Explosives Act against the respondent and four other persons, on allegations of criminal conspiracy to cheat the Government and improperly install fire-fighting equipment at Government Hospitals, including the New CVC, Vikas Sadan, and CGHS Ayurvedic Hospital at Aliganj.

4. Pursuant to the registration of the case, departmental proceedings were initiated against the respondent under Rule 14 of the CCS (CCA) Rules, 1964. The respondent was placed under suspension with effect from 09.04.2001, which was later revoked on 30.12.2005.

5. Subsequently, *vide* Order dated 29.01.2010, the Disciplinary Authority imposed the penalty of reduction of pay by one stage in the time scale of pay for a period of one year, without cumulative effect. The respondent appealed against the said order, and the Appellate Authority, *vide* Order dated 20.08.2010, modified the punishment to



“Censure.”

6. *Vide* Judgment and Order dated 15.02.2018, the learned Special Judge, CBI, dropped the proceedings against the respondent.

7. The CBI thereafter filed Criminal Revision Petition No. 886/2018 before the High Court against the said Judgment and Order. The last hearing in the matter was held on 23.02.2023, and no fresh date of listing has been fixed thereafter.

8. The respondent retired on attaining the age of superannuation on 31.10.2018. Thereafter, he made two representations, dated 01.02.2019 and 16.04.2019, to the petitioner No. 2, seeking payment of his leave encashment and gratuity, which had been withheld. In response, the petitioner no. 3, *vide* letter dated 06.05.2019, informed the respondent that the office had sought issuance of a Vigilance Clearance Certificate from the EC-3 Section, CPWD, and as per information received from the Directorate of Vigilance, one case was still pending against the respondent; hence, his regular pension, leave encashment, etc., were being kept pending.

9. Being aggrieved by the letter dated 06.05.2019, the respondent filed O.A. No. 1965/2019 under Section 19 of the Administrative Tribunals Act, 1985 before the learned Tribunal, challenging the said communication.

10. The learned Tribunal, *vide* the Impugned Order, allowed the O.A. and directed the petitioners to pay the leave encashment dues to the respondent along with interest at the applicable GPF rates from the date of retirement till the date of payment, and further directed the petitioners to re-examine the matter regarding the withholding of



gratuity.

11. The petitioners thereafter filed a Review Application, being R.A. No.72/2024 in the above O.A., which was dismissed by the learned Tribunal by way of Impugned Order dated 10.09.2024, observing that no ground of the review of the judgment was made out.

12. The limited grievance of the petitioners against the Impugned Orders is that the learned Tribunal has erred in directing the petitioners to pay interest on the Leave Encashment Dues of the respondent.

13. The learned counsel for the petitioners submits that the learned Tribunal has failed to appreciate that by the Office Memorandum No.38/64/98-P&PW(F) dated 05.11.1999, it had been clarified that there is no provision under the CCS (Leave) Rules, 1972, for payment of interest on the Leave Encashment Dues. It was further clarified that the Leave Encashment is a benefit granted under the leave Rules and not a Pensionary Benefit. She further submitted that there were criminal proceedings pending against the respondent and, therefore, he was not entitled to the Leave Encashment Dues.

14. We are unable to accept the submissions of the learned counsel for the petitioners.

15. This Court in *Ex Flg Officer Subhash Pandey v. Union of India & Ors.* (Judgment dated 19.05.2008 in W.P.(C) No. 495/2008), has held that the amount due by way of the leave encashment is a right of property in terms of Article 300A of the Constitution of India, and therefore, the employee would not become disentitled to the same only because he/she has been dismissed from service.



16. In the present case, the respondent has been visited only with a punishment of 'Censure' in the departmental proceedings and has also been discharged in the criminal case against him. Though the CBI has filed a Revision Petition challenging the discharge of the respondent from the criminal case, there is no order finding the respondent guilty of charges against him or even interfering with the order of his discharge, passed till date.

17. As held, the leave encashment due are the property of the respondent/employee. The same dues were admittedly not released to the respondent, who had superannuated on 31.10.2018. The retention of the same is without authority of law. The learned Tribunal has, therefore, rightly directed the petitioners to release the Leave Encashment Dues to the respondent along with the interest.

18. We find no infirmity in the said direction. Accordingly, the present petition is dismissed.

**NAVIN CHAWLA, J**

**MADHU JAIN, J**

**AUGUST 6, 2025/Arya/DG**