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

***Date of decision: 16.09.2025***

+ W.P.(C) 13125/2019  
SHRI NAROTTAM SINGH SHAMI .....Petitioner  
Through: Mr. Sachin Chauhan, Adv.

versus

GOVT. OF NCTD AND ORS. ....Respondents  
Through: Mrs.Avnish Ahlawat, SC,  
GNCTD (Services) with  
Mr.N.K. Singh, Adv.

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

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

1. This petition has been filed, challenging the Order dated 27.08.2019 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal') in O.A. No. 3400/2016, titled *Shri Narottam Singh Shami v. Govt. of NCTD & Ors.*, whereby the learned Tribunal has denied the claim of interest on the delayed payment of the Leave Encashment amount to the petitioner.

2. The petitioner, who was appointed to the post of Section Officer on 10.04.1973 in the Irrigation & Flood Control Department, Govt. of NCTD, had retired at the rank of Executive Engineer (Civil) on 30.06.2010. He was denied his retiral benefits as a Charge



Memorandum dated 30.06.2010 was served on him, purporting to hold an inquiry under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. Only provisional pension was released in his favour.

3. The contemplated Departmental Inquiry was, however, not initiated against him, and the alleged charges were eventually dropped in the year 2016.

4. The petitioner made various representations thereafter for release of Gratuity and Leave Encashment amounts that had been withheld.

5. *Vide* cheques dated 23.09.2016, the Gratuity and the Leave Encashment amounts were released to the petitioner. The petitioner then requested for the payment of interest on the same, and having failed to receive a response, filed the above O.A. praying for the following reliefs:

*“(i) To direct the respondents that applicant be granted the 18% interest on the delayed retiral benefits i.e. 12,34,609/- (Rs.4, 65, 890- Leave Encashment and Rs. 7,68,719/- towards gratuity) from the date of retirement i.e. 30.06.2010 to the date of actual payment i.e. 23.09.2016.*

*(ii) That the applicant be further awarded the cost of Rs.25,000/ towards the cost of present litigation.”*

6. During the pendency of the above O.A., interest on the Gratuity amount was released to the petitioner, however, interest on the Leave Encashment remained pending adjudication before the learned Tribunal.

7. The learned Tribunal, by its Impugned Order, placing reliance on the Office Memorandum No.38/64/98-P&PW(F) dated 05.10.1999



issued by the Department of Pension & Pensioners' Welfare, Ministry of Personnel, Public grievances & Pensions, Government of India, has rejected the said prayer observing as under:

*“8. So far as claim of interest on delayed payment of the amount of his Leave Encashment is concerned, the respondents have specifically placed reliance of the DOP&T instructions as quoted above. However, learned counsel for the applicant has not produced any rule or law to the contrary as submitted by the learned counsel for the respondents. However, he placed reliance on the decision of the Apex Court in the case of S.K. Dua vs. State of Haryana and others, (2008) (3) SCC 44, wherein the Apex Court held that “even in the absence of specific Rule or order for providing interest, relief can be claimed on the basis of Articles 14, 19 and 21 of the Constitution of India, as retirement benefits are not a bounty” as also the Hon’ble Delhi High Court’s decision dated 7.12.2015 in WPC No.9767/2015 (titled Ram Kishan vs. Union of India and others). This Tribunal carefully perused the said judgements of the Apex Court as well as of the Hon’ble Delhi High Court in Ram Kishan’s case (supra), however, the same are not applicable to the facts of this case as the respondents in this case have themselves released the admissible amount of interest on the delayed payment of gratuity during the pendency of this OA and the fact that interest on delayed payment of amount of Leave Encashment was denied on account of the above clarification of the DOP&T as quoted above. It is to be noted that OMs relied upon by the applicant do not supersede the provisions of the Rules ibid on the subject and the fact that when there is no rule on a particular subject, the instructions and guidelines issued by the competent authority on the said subject holds the field. Therefore, this Tribunal is of the considered view that the said decisions are not helpful to the case of the applicant in the peculiar facts of this case.”*

8. The learned counsel for the petitioner submits that the OM



dated 05.10.1999 does not prohibit grant of interest on the Leave Encashment amount, which is a retiral due. He submits that, in fact, the Judgment of the Supreme Court in *S.K. Dua v. State of Haryana & Another*, (2008) 3 SCC 44, clearly stipulates that even in absence of any provision governing the release of the interest on the retiral dues, in terms of Articles 14, 19 and 21 of the Constitution of India, the employee can claim interest on the same as the retiral dues are not a bounty. He submits that the reliance of the learned Tribunal on the OM dated 05.10.1999 was, therefore, unfounded.

9. On the other hand, the learned counsel for the respondents reiterates that the Government of India, by its OM dated 05.10.1999, has clarified that there is no provision for payment of interest on the Leave Encashment amount as it is not a pensionary benefit. He submits that the learned Tribunal has, therefore, rightly rejected such claim of the petitioner.

10. We have considered the submissions made by the learned counsels for the parties.

11. At the outset, we would note that it is now settled law that Leave Encashment amount is not a bounty but akin to a fundamental right of the employee. To this effect, we place reliance on the Judgement of the Supreme Court in *S.K. Dua* (supra) and of this Court in *Union of India & Ors. v. Vijay Kumar Gupta*, 2025:DHC:6532-DB.

12. Paragraph no.2(f) of the OM dated 05.10.1999, on which reliance has been placed by the learned Tribunal, reads as under:

“(f) *In the matter of delayed payment of Leave*



*Encashment, the department of Personnel & Training in their note dated 2.8.99 has clarified that there is no provision under CCS (Leave) Rules for payment of interest or for fixing responsibility. Moreover, encashment of leave is a benefit granted under the leave rules and not a pensionary benefit.”*

13. Reading of the above would show that by the above OM, it is only being clarified that there is no provision under the CCS (Leave) Rules, 1972 for payment of interest or for fixing responsibility for the late payment of Leave Encashment. It has further being clarified that the encashment of the leave is a benefit granted under the Leave Rules and not a pensionary benefit. The said OM, therefore, does not prohibit grant of interest on the delayed payment of Leave Encashment but only clarifies that there is no statutory provision mandating the payment of interest.

14. In absence of any such prohibition and even assuming that there is no such rule which provides for payment of interest on the delayed payment of Leave Encashment, the law settled by the Supreme Court in *S.K. Dua* (supra) would clearly be applicable, and we quote the same as under:

*“14. In the circumstances, prima facie, we are of the view that the grievance voiced by the appellant appears to be well founded that he would be entitled to interest on such benefits. If there are statutory rules occupying the field, the appellant could claim payment of interest relying on such rules. If there are administrative instructions, guidelines or norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. **But even in absence of statutory rules, administrative instructions or guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution.** The submission of the*



*learned counsel for the appellant, that retiral benefits are not in the nature of "bounty" is, in our opinion, well founded and needs no authority in support thereof. In that view of the matter, in our considered opinion, the High Court was not right in dismissing the petition in limine even without issuing notice to the respondents."*

*(Emphasis supplied)*

15. Applying the above law to the facts of the present case, the petitioner was clearly entitled to grant of interest on the delayed payment of Leave Encashment.

16. Accordingly, the Impugned Order dated 27.08.2019 of the learned Tribunal is set aside.

17. The respondents are directed to pay interest at the rate of 6% p.a. to the petitioner for the delayed payment from the date when the amount under the Leave Encashment became due to the petitioner till the date of actual release of the same. The amount shall be released by the respondents to the petitioner along with the calculation thereof, within a period of four weeks from today. In case of any grievance, the petitioner may take appropriate remedies in that regard.

18. The petition is disposed of in the above terms.

**NAVIN CHAWLA, J**

**MADHU JAIN, J**

**SEPTEMBER 16, 2025/ns/ik**