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

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Judgment Reserved on: 19.01.2026

Judgment delivered on: 12.02.2026

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**W.P.(C) 4683/2024**

CAPT. ASHOK KUMAR MALHOTRA (RETD.)

.....Petitioner

versus

BORDER SECURITY FORCE &amp; ORS.

.....Respondents

**Advocates who appeared in this case**

For the Petitioner : Ms. Esha Mazumdar and Ms. Muskan  
Sharma, Advocates.

For the Respondents : Mr. M. Theepa, SPC with Mr. Yogesh  
Dubey, Advs with HC Jitendra Kr. Mishra.

**CORAM:****HON'BLE MR. JUSTICE V. KAMESWAR RAO****HON'BLE MS. MANMEET PRITAM SINGH ARORA****JUDGMENT****V. KAMESWAR RAO, J.**

1. This petition has been filed with the following prayers:-

*“a. Issue a Writ of Certiorari or any other appropriate Writ, Order or Direction of like nature, quashing and setting aside order dated 07/11/2022 issued by the Respondents;*

*b. Award interest at GPF rates from the date of entitlement of pension or the date of application till actual payment of arrears i.e., 21/12/2020;*

*c. Award costs of the proceedings;*

*d. Pass such other/further order in favour of the*



*Petitioner and in the interest of justice.”*

2. The petitioner herein assails the order dated 07.11.2022, whereby the respondents have rejected the representation of the petitioner for claim of interest on the ground that there was no delay in the payment of commuted pension on arrears.

3. The submissions of Ms. Esha Mazumdar, learned counsel appearing for the petitioner are the following:-

- i. The petitioner is a senior citizen and a retired Captain (Ex-Commandant) from Vayudoot Pvt. Ltd., Safdarjung Airport, New Delhi. He was recruited in December 1972 as a temporary co-pilot in the Air Wing of the Border Security Force (BSF). After nearly ten years of service, he was sent on deputation in January 1982 to Vayudoot, from where he ultimately superannuated.
- ii. Upon his permanent absorption in Vayudoot, the petitioner's name was struck off from the permanent strength of BSF, and his lien against the permanent post stood terminated under FR-14A(d) w.e.f. 12.09.1983. He submitted his Last Pay Certificate and deposited Rs.7,554/- towards leave salary, pension contribution, and penal interest for the foreign service period from 12.04.1982 to 30.09.1983.
- iii. At the time of his absorption, the petitioner applied for and was granted pensionary benefits, including DCRG and leave encashment. He exercised the option under Rule 37-A of the CCS (Pension) Rules, 1972 to commute 100% of his pension and received a lump sum of Rs.66,612/- in lieu of monthly pension.



iv. She drew our attention to the judgments and circulars, which relate to the law regarding grant of restoration of pension with respect to absorbee petitioners such as the petitioners herein:

- a) ***Common Cause v. Union of India (AIR 1987 SC 210)***; to implement this judgment, the Government issued an ***O.M. dated 05.03.1987.***
- b) ***Welfare Association of Absorbed Central Government Employees in Public Enterprises v. Union of India (1996 (2) SCC 187)***, wherein, the Court struck down Para-4 of the ***O.M. dated 05.03.1987*** in furtherance of which Government issued an ***O.M. dated 30.09.1996,***
- c) ***Welfare Association of A.C.G.E. v. Arvind Verma (AIR 1998 SC 2862***
- d) ***P.V. Sundara Rajan v. Union of India (2000 SC 3387)***, ***K. Ganesan v. The Registrar (2007 SCC OnLine Mad 1496)***,
- e) ***Union of India v. K. Ganesan (Dead) through LRs, Civil Appeal Nos. 6048 & 6371 of 2010,***
- f) ***Review Petitions Nos. 465/2017 and 472/2017 in Civil Appeal Nos. 6048 & 6371 of 2010***, the Department of Pension & Pensioners' Welfare issued ***O.M. dated 23.06.2017*** and ***Corrigendum dated 21.07.2017***

v. The petitioner addressed a letter dated 03.02.2012 to the IG (Pers), DG, BSF seeking release of his pension w.e.f. 12.09.1983, asserting no pension had ever been paid. Replies from the Assistant Director (Accounts) and Personnel Directorate, BSF stated that all pensionary benefits had already been released at the time of absorption and that



nothing remained pending. No response was given regarding his entitlement and pending issues before the Supreme Court were not apprised to him.

- vi. Upon learning of the Supreme Court orders in August 2019, the petitioner submitted a representation dated 26.08.2019 to the Deputy Director (Accounts), DG, BSF, seeking release of pensionary benefits and referring to his earlier correspondence of 2012 wherein his claim had been denied. *Vide* order dated 18.11.2020, the respondent No.1 granted restoration of 100% pension upon expiry of the 15-year commutation period and released arrears amounting to Rs.83,53,988/- for the period 01.04.1999 to 31.10.2020, without interest. A PPO dated 23.12.2020 was issued, and future pension at Rs.61,550/- plus DA was directed to be paid from 01.11.2020 onwards. The petitioner thus received arrears of one-third pension from 01.04.1999 to 23.06.2017 and full pension from 24.06.2017 to 21.12.2020, but no interest was paid despite a delay of 21 years and 9 months;
- vii. Aggrieved, the petitioner lodged a grievance on the CPGRAMS portal, approached CPENGRAMS on 13.10.2021, enclosing Supreme Court judgments mandating payment of interest on delayed pension, made representations to various authorities, including the Joint Secretary, Ministry of Home Affairs, DIG, BSF, Director (Accounts), PAD, BSF, and the Ministry itself and even personally visited the office of Director (Accounts), PAD, BSF on 14.03.2022 and submitted a detailed representation dated 23.03.2022 reiterating his claim for interest on delayed pension;



- viii. Left with no alternative, the petitioner filed W.P.(C) No.10400/2022 before this Court, which was withdrawn *vide* order dated 11.07.2022 with liberty to make a fresh representation. Accordingly, the petitioner submitted a representation to the Director General, BSF on 27.07.2022, which was rejected *vide* order dated 07.11.2022 (Impugned Order). These submissions were again raised in his representation dated 04.12.2023, which was rejected *vide* order dated 13.02.2024.
- ix. She has assailed the impugned order by the respondents on the following grounds:
- a. The State being a model employer is expected to ensure that the pension and other benefits are revised from time to time and the employees are not made to suffer on account of laxity and mistake of the State;
  - b. The admitted delay in the revision of the pension is not attributable to the applicant/petitioner in any manner;
  - c. The delay in pension is against all canons of fairness, the same being apparent from the fact that the respondents have not denied in the rejection letter that the delay is attributable to them. The inordinate delay of 21 years and 9 months was solely attributable to the respondents;
  - d. The petitioner is presently aged 77 years. Since he was entitled to the restoration of pension from the due date, i.e. 01.04.1999, as was admitted by the respondents, the same merits reasonable/adequate interest thereon and no cogent reasons have been provided in the impugned order to deny the interest to the petitioner;



- e. The petitioner promptly approached the respondents in the year 2019, when his right to pension along with dues got crystallized, which request took more than one year to be processed by the respondents, causing further delay;
  - f. It has been held by the Supreme Court in many cases, as relied upon by the petitioner, that pension cannot be treated as a bounty payable at the sweet will of the government;
  - g. The impugned order grossly violates Articles 14 and 16 of the Constitution.
  - x. She relied upon Rule 65 of the CCS (pension) Rules to state that the respondents are liable to pay interest to the petitioner on delayed arrears. She has also placed reliance upon the judgments in the cases of *The State of Andhra Pradesh & Anr. v. Dinavahi Lakshmi Kameswari, Civil Appeal No.399 of 2021*; *D.D. Tewari v. Uttar Haryana Bijli Vitram Nigam Ltd, AIR 2014 SC 2861*; *D. Damayanthi and Others v. Secretary, Ministry of Home Affairs, Government of India & Ors, 2011 (5) ALD 71*; *Uma Aggarwal v. The State of U.P. & Ors, 1999 (Vol.2) SLR 2* and *Ayodhya Lal Sharma v. Union of India, 2020 SCC Online HP 4284*
4. Contesting the submissions Mr. M. Theepa, SPC appearing for the respondents made the following submissions:
- a. That the present petition filed by the petitioner is misconceived. The petition is barred in view of the law as laid down in the case of *Sarguja Transport Service v. State Transport Appellate Tribunal, M.P. Gwalior & Ors, (1987) 1 SCC 5*.



- b. The claim for interest on the alleged delay of restoration of commuted pension and arrears is a subsequent claim i.e., after approximately two years of receiving of the complete payment *in lieu* of the commuted pension along with arrears.
- c. The petitioner, consequent to the above writ, submitted a representation dated 27.07.2022, addressed to DG BSF, seeking interest on alleged delay in release of his pension which was examined in detail and rejected by the Competent Authority for being devoid of merit and same was communicated to the petitioner *vide* speaking order dated 07.11.2022.
- d. As per the Ministry, *vide* their **O.M. No. 4/334/2002-P&PW(D) Vol.II dated 23.06.2017**, the absorbee pensioners who had taken 100% lump-sum amount *in lieu* of pension on absorption in PSU/Autonomous Bodies in accordance with the then existing Rule-37 A and in whose case 1/3<sup>rd</sup> pension had been restored after 15 years, may be allowed restoration of full pension after expiry of commutation period of 15 years from the date of payment of 100% lump-sum amount.
- e. The petitioner was allowed to restore his pension after expiry of commutation period of 15 years from the date of payment of 100% lump-sum amount i.e. 01.04.1999, which was accordingly restored *vide* PPO No. 240552003979 dated 23.12.2020 and admissible arrears amounting to Rs. 83,53,988/- were also paid. In light of the same, he stated that there was no delay at the level of BSF. Hence, the question of interest on delayed pension does not arise.
- f. He relied upon Para 5 of Ministry/DoP&PW **OM No. 42/3/98-P&PW(G) dated 30.09.1996** to state that a representation dated 26.08.2019 was preferred by the petitioner with the request to pay his pensionary



benefits and other benefits which was received and duly examined in detail, in consultation with Pay & Accounts Department BSF, New Delhi but the application of the petitioner to get the benefit of the above OM was only received by the respondents at a belated stage, i.e., after approximately 23 years.

- g. *Vide* DoP&PW OM No. 4/28/2008-P&PW(D) dated 15.09.2008, DoP&PW OM No. 4/30/2010-P&PW (D) dated 11.07.2013 and DoP&PW OM No. 4/38/2008-P&PW dated 04.08.2016, in pursuance of the Government's decision on the recommendation of the Sixth Central Pay Commission, the benefit of commutation of pension was revised and extended to pre-2006 pensioners/family pensioners and instructions had been issued for revision of pension of pre-2006 *vide* Deptt. of Pension & Pensioners Welfare's OM No.38/37/08-P&PW(A) dated 01.09.2008.
- h. The matter was examined in consultation with the ministry, it was decided to grant to benefit of the judgment in *K. Ganesan (supra)* and *Union of India v. K. Ganesan (Dead) through LRs(supra)* to all similarly placed pensioners.
- i. He relied upon the guidelines issued by the DoP&T *vide* OM No. 11013/4/2010-Estt.(A). The petitioner, after receiving the order dated 07.11.2022, in response to his representation, (again submitted a representation dated 01.12.2023) which was examined in detail, in consultation with PAD BSF and Finance Wing. Accordingly, decision of the Competent Authority was conveyed to the petitioner. He stated that when already representations of the petitioner have been considered and replied to, further representations on the same issue could not have been considered.



j. He stated that though the petitioner, aggrieved by the decision of the respondents in denying him simple interest on arrears of pension continued to follow up his case, due to the involvement of various officers /sections, and also for the reason being that this is an old pension case, the delay in deciding the case of the petitioner by the respondents was not willful or intentional. Additionally, there was an involvement of various various rules and policies in the matter.

k. Concluding his submissions, he stated that the prayer of the petitioner for quashing the order dated 07.11.2022 and for award of interest has no merit and the petition is liable to be dismissed, being devoid of merit.

5. Having heard the learned counsel for the parties and perused the record, the prayer of the petitioner is for setting aside of the order dated 07.11.2022 whereby the respondents have rejected the claim of the petitioner of interest on the amount paid to the petitioner, as arrears on restoration of commutation after 15 years.

6. The prayer is for payment of interest at GPF rates *from the date of entitlement of pension or the date of application till actual payment of arrears* on 21.12.2020. It may be stated here that the submission of Ms. Mazumdar is that the application seeking restoration of commutation in terms of the judgment/instructions of the Supreme Court and the Government, the petitioner made a claim on 03.02.2012, the said representation was rejected on 21.02.2012. In this regard, we may state that the claim of the petitioner in the letter dated 03.02.2012 was the following:-

*“Subject: Release of leave salary pension.*

*Sir,*

*I joined B.S.F. on 12/7/73, thereafter 12/4/82 I was sent on deputation to M/s Vayudoot Ltd. a public*



*sector undertaking through proper channel and thereafter struck of permanent strength of the Border Security Force w.e.f. 12/9/83.*

*My lien against my permanent post was terminated under F.R.-14A(D) from the same date i.e. 12/9/83.*

*A no demand certificate from the Admn. Directorate is also enclosed.*

*I shall be grateful if you kindly release my pension w.e.f. 12/9/83, as I have already paid pension contribution as per the last pay certificate and have not been paid any pension till date after leaving B.S.F. (Photo copies enclosed).”*

7. The request made by the petitioner was rejected and rightly so, as the request of the petitioner is for leave salary pension and not arrears on restoration of commuted value of pension. The petitioner on his appointment in the Vayudoot had commuted 100% pension of the service in BSF and was not entitled to any other benefits, though, pursuant to the judgment of the Supreme Court and the instructions issued by the Government, the petitioner became entitled to restoration of commutation after 15 years of service.

8. The claim for restoration of commutation was made for the first time in the year 2019 i.e. 26.08.2019 and the respondents *vide* order dated 18.11.2020 had paid the arrears of restoration of the commutation of his pension. So, the entitlement of interest to the petitioner as contended by Ms. Mazumdar must relate back to 2012 is unmerited.

9. This Court is of the view that as the case is an old case relating back to the year 1983, the respondents were required to consider the case based on the records, and surely, six months should be treated as a reasonable period for them to consider the request of the petitioner and act on the same but we



find that the respondents have taken more than one year in processing the case of restoration of commutation of the pension.

10. So, it follows that the interest, if any, which needs to be paid is for the period after the expiry of six months from 26.08.2019. It means that the petitioner shall be entitled to interest with effect from 27.02.2020. The amount having been paid on 20.11.2020, the petitioner shall be entitled to interest @ 6% p.a. for the period between 27.02.2020 to 18.11.2020. The said amount shall be paid to the petitioner within a period of eight weeks as an outer limit. We have noted the catena of the judgments which are relied upon by Ms. Mazumdar. Suffice to state, need is not felt to deal with them in view of our conclusion above.

11. With the above observations, the petition is disposed of.

**V. KAMESWAR RAO, J**

**MANMEET PRITAM SINGH ARORA, J**

**FEBRUARY 12, 2026/sr**