

HIGH COURT OF MADHYA PRADESH: JABALPUR**(Division Bench)****Writ Appeal No. 200/2017****State of Madhya Pradesh
& others**

.....Appellants

Versus

Jagdeo Singh

.....Respondent

CORAM:**Hon'ble Shri Justice Hemant Gupta, Chief Justice****Hon'ble Shri Justice Atul Sreedharan, Judge****APPEARANCE:**

Shri Vishal Dhagat, Government Advocate for the Appellants/State.

Shri Rajesh Soni, Advocate for the respondent.

Shri Ashish Shroti, Advocate appears as *Amicus Curiae*.**Whether Approved for Reporting: Yes****Law Laid Down:**

- Non-payment of some retiral dues on account of pendency of the revision against an order of acquittal of the writ-petitioner cannot be said to be a contumacious act on behalf of the State to deprive the writ-petitioner of his retiral dues. It was an action possible in law. However, since there is some delay, interest @6% per annum is ordered to be paid on the retiral dues to settle the equities between the parties. - Supreme Court decision reported as **(2017) 1 SCC 49 (State of U.P. v. Dharendra Pal Singh) – Relied.**

Significant Paragraphs: 5, 6 & 7

Reserved on: 22.10.2018

ORDER

(Pronounced on this 30th day of October, 2018)

Per: Hemant Gupta, Chief Justice:

The challenge in the present appeal is to an order passed by the learned Single Bench on 14.07.2016 in W.P. No.20319/2015 (*Jagdeo Singh v. State of M.P. & others*) whereby the appellants were directed to pay interest @12% per annum on the delayed payment of pension and gratuity.

2. The writ-petitioner attained the age of superannuation on 30.06.2009 but prior to his superannuation a criminal case was registered against him in which he was acquitted on 12.08.2008. The petitioner was given provisional pension but gratuity and certain portion of pension was withheld due to revision filed by the State of M.P. being M.Cr.C. No.09/2007 against an order of acquittal passed by the Trial Court. The revision petition was dismissed on 24.07.2013 and remaining retiral dues were paid to him. The learned Single Bench has held that non-payment of retiral dues because of the pendency of revision after acquittal is not justified, therefore, ordered payment of interest on such benefits.

3. A Division Bench of this Court in a judgment reported as **(2008) 4 MPLJ 235 (M.P. State Civil Supplies Corporation Ltd. v. Vinod Kumar Save)** has held that after acquittal, filing of an appeal does not lead to a fact that employee is under suspension. However, the issue raised in the present appeal is not whether the writ-petitioner is deemed to be under suspension or not but the question is: whether after acquittal of the writ-petitioner, the

State was unjustified not to make payment of retiral dues on account of revision filed against an order of acquittal.

4. The learned counsel for the Respondent relies upon a judgment reported as **2013 (1) MPLJ 53 (State of M.P. and others v. Ramji Das Agarwal)**, wherein a Division Bench of this Court ordered payment of interest @12% per annum on the amount of gratuity, leave encashment, arrears of pay revision etc.

5. We have heard learned counsel for the parties and find that though the pendency of revision against the acquittal will not lead to revival of suspension nor it would to revival of disciplinary proceedings as criminal proceedings and the departmental proceedings are two separate proceedings. The pendency of one will not affect the other. But, the question to be examined is as to whether an employee is entitled to interest for the non-payment of retiral dues pending revision against an order of acquittal passed by the criminal court.

6. The question of payment of interest has been examined by this Court in **Writ Appeal No.1052/2017 (State of M.P. and others v. Ramlal Mahobia)** decided vide separate order passed today considering the judgment of the Supreme Court reported in **(1994) 2 SCC 240 (Union of India etc. v. Justice S.S. Sandhawalia (Retd.) & others etc.)**. However, the Supreme Court in a judgment reported as **(2017) 1 SCC 49 (State of Uttar Pradesh and others v. Dharendra Pal Singh)** ordered to pay interest @6% per annum on the unpaid amount of pension on the date it has fallen due and interest @8% per annum on the unpaid amount of gratuity from the date of retirement of the employee.

7. Since the non-payment of some retiral dues is on account of pendency of the revision against the order of acquittal, it cannot be said that the action of the State in not paying the retiral dues was contumacious to deprive the writ-petitioner of the retiral dues. It was an action possible in law. Since there is some delay, therefore, in terms of the judgment in **Dhirendra Pal Singh** (supra), the appellants shall pay interest @6% per annum on the retiral dues to settle the equities between the parties.

8. In view of the above, the order dated 14.07.2016 passed by the learned Single Bench to grant interest @12% per annum is hereby modified to the extent indicated above. The present appeal is **allowed** in part and the Writ Petition No.20319/2015 for claiming interest also stands partly allowed.

(HEMANT GUPTA)
CHIEF JUSTICE

(ATUL SREEDHARAN)
JUDGE