

**Court No. 2**  
**Reserved Judgment**

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

**Transferred Application No. 692 of 2010**

**Wednesday this the 22<sup>nd</sup> day of November, 2017**

**Hon'ble Mr. Justice S.V.S. Rathore, Member (J)**

**Hon'ble Lt. Gen. Gyan Bhushan, Member (A)**

Suresh Kumar Soni,  
S/o Sri Shree Pal Soni  
R/o Village : Pura Mufti,  
Tehsil-Manjhanpur  
P.O.- Pura Mufti Thana,  
District : Kaushambi- 212258.

.....**Petitioner**

By Legal Practitioner: Shri Suresh Kumar Soni, in person.

Versus

1. Union of India, through the Secretary, Ministry of Defence,  
New Delhi.
2. The Chief of the Air Staff,  
New Delhi.
3. The Air Force Central Accounts Office,  
Subrato Park, New Delhi-110010.
4. The State Bank of India, Branch-Manauri,  
District-Kaushambi through its Manager.
5. Smt Laxmi Soni C/o Soni Tailers  
Pura Mufti Thana Allahabad (U.P.)

..... **Respondents**

By Legal Practitioner: Dr Shailendra Sharma Atal, Learned  
Standing Counsel for the Central Government

**ORDER**

**Per Hon'ble Mr. Justice S.V.S. Rathore, Member (J)**

1. Initially the petitioner filed Civil Misc. Writ Petition No.24220 of 2009 before the Hon'ble High Court of Judicature at Allahabad and under the orders of the Hon'ble High Court of Judicature at Allahabad, it was transferred to this Tribunal and registered as T.A.No.692 of 2010 in pursuance of the provisions contained in Section 34 of the Armed Forces Tribunal Act, 2007.

2. In this case vide our order dated 14.11.2017, respondent no.5 Smt. Laxmi Soni was impleaded as respondent no.5 as the case was listed on 15.11.2017. On the date fixed, the petitioner and respondent no.5 appeared in person and submitted that they do not intend to file counter and rejoinder affidavits and made a request that their case be heard and decided finally. Since the writ petition is of the year 2009, so we heard the parties the same day.

3. By means of the instant T.A., the petitioner has made the following prayers:-

*“(i) to issue a writ, order or direction in the nature of MANDAMUS commanding the respondent Air Force Authority to pay petitioner interest on total retiral dues delay paid principal amount Rs. 9,70,545/- with 18% interest coupled with recurring interest for 9 years on total retiral dues payment made to petitioner so far on 6.2.2009 in accordance with law.*

*(ii) to issue a writ, order or direction in the nature of MANDAMUS commanding the respondent Bank to pay interest with 18% interest and to recompensate for loss suffered as Bank has illegally withheld the retiral dues amount in absence of any restrain order from employer/or counts.*

*(iii) to issue a writ, order or direction in the nature of MANDAMUS commanding the respondent Chief of Air Staff to consider, discuss and dispose of petitioner's pending application dated 16.3.2009 (Annexure No). as to release of interest on retiral dues, within a period of one month by speaking and reasoned order in favour of petitioner.*

*(iv) Issue, any other suitable writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.*

*(v) award the cost of the petition to the petitioner.”*

4. The facts, in brief, giving rise to the present T.A. are that the petitioner was enrolled in the Indian Air Force on 19<sup>th</sup> March 1980 and on 24<sup>th</sup> May 1985 his marriage was solemnised with Smt. Laxmi Soni, who has been impleaded as respondent no.5. Six children were born out of the

said wedlock. Some matrimonial disputes arose between them, so respondent no.5 made a prayer for grant of maintenance allowance. Vide order dated 30.09.1998 Rs.1850/- p.m. was granted as maintenance allowance in favour of the respondent no.5 from the salary of the petitioner. On 27.12.1998, the respondent no.5 filed an application under Section 125 Cr.P.C. for grant of maintenance allowance, whereby she has made request for Rs.2000/- per month for her and Rs.500/- for each of the children. At the time of filing of the writ petition, the said case was pending. On 05.01.2000, respondent no.5 moved an interim maintenance application before the Family Court, Allahabad. Vide order dated 10.01.2000, the Family Court, Allahabad restrained Bank/Air Force authorities from paying petitioner service terminal dues in following heads :

- (i) Provident Fund
- (ii) Pension
- (iii) Group Insurance money.

5. On 31.03.2000 the petitioner was discharged from service after completing 20 years of service. Vide order dated 19.12.2000, the Family Court further directed the Bank/Air Force authorities to deposit in the name of five children  $\frac{1}{4}$ <sup>th</sup> out of total amount under Family Court guardianship and to deposit  $\frac{1}{2}$  out of total amount in the Family Court. As per the petitioner, the said attachment order was illegal which was passed in violation of Section 60 C.P.C. and Section 10 Provident Fund Act. The petitioner, being aggrieved by the said order, filed Revision No.217 of 2001 and the Revisional Court stayed the said order of attachment of the petitioner's pension dated 10.01.2000. On 22.02.2001 Group Insurance money was paid, Truck allowance on 26.02.2001, leave encashment on 03.07.2001, Vth Pay Commission arrears were paid on 31.01.2002 and on 19.01.2004 Provident Fund amount was paid, but no interest was paid for delayed payment of that amounts. On 16.03.2005 the Family Court issued orders for payment of medical and gratuity amount. However, the said amount was not released. On 07.04.2005, respondent no.5 Smt. Laxmi Soni filed Criminal Revision no.1631 of 2005 against the said order of the Family Court releasing medical and gratuity and the execution of the said order was stayed by the Hon'ble High Court, Allahabad vide order dated

07<sup>th</sup> April 2005. On 10.12.2008, Hon'ble High Court, Allahabad disposed of the said revision directing the Family Court, Allahabad to dispose of the said maintenance allowance case on merits within 90 days. On 17.01.2009 the said maintenance case was dismissed in default and has not been restored. Thereafter on 06<sup>th</sup> February 2009 the petitioner's pension was released in part from 01.04.2000 to January 2009 through the bank without any interest and without furnishing the petitioner month-wise details. On 10.02.2009, retiral dues was released after about nine years without any interest. On 16.03.2009 the petitioner submitted a representation under Section 98 of the Air Force Act, 1950 to the Chief of the Air Staff requesting for payment of interest on total retiral dues. The said application is still pending and has not been disposed of. Thus, the claim of the petitioner is that an amount of Rs.9,70,545/- was paid to him after a gap of about nine years, therefore, he is entitled to interest @ 18% p.a. on the said amount.

6. On behalf of the respondent nos. 1 to 4, it has been submitted that the delay in payment was not due to any fault on behalf of the respondents, but the amount was not paid in compliance of the orders of the Family Court, Allahabad passed in Case No.60 of 1998 under Section 125 Cr.P.C. Smt. Laxmi Soni vs. Suresh Kumar Soni.

7. During the course of hearing, the petitioner and respondent no.5 made their submissions. Both made emotional arguments. The claim of the petitioner is that because of such long delay in payment of his retiral dues, the value of money has depreciated considerably and, therefore, the said loss of depreciation must be compensated by payment of proper interest. Respondent no.5 has argued that during the service period of the petitioner, she was getting maintenance allowance @ Rs.1850/- per month. She has six children, three sons and three daughters. Three daughters are grown up, one of her daughters has completed Engineering and the others are pursuing higher studies and she needs money for their education and marriage.

8. In response, the petitioner has submitted that in case the Court reaches a conclusion that he is entitled for any interest on the delayed payment of his retiral dues, then the entire interest amount, so accrued, be paid to the respondent no.5 for the welfare of his sons and daughters. We highly appreciate this gesture of the petitioner.

9. The admitted facts are that the petitioner and respondent no.5 are husband and wife. There is long standing matrimonial dispute between the two, due to which during the service period, maintenance allowance was paid to her. She filed application under Section 125 Cr.P.C. in the year 1998, wherein a stay order was passed, due to which the post retiral dues to the tune of Rs.9,70,545/- could not be paid to the petitioner. Subsequently, the said Case No.60 of 1998 was dismissed in default vide order dated 17<sup>th</sup> January 2009. The respondent no.5 during the course of arguments, has fairly conceded that at present no other case between the respondent no.5 and the petitioner is pending in any court for any relief. Petitioner has submitted that the order staying the payment of retiral dues of the petitioner was an illegal order passed by the Family Court. We are not sitting in appeal or revision against the order of the Family Court, so we do not consider it appropriate to express any opinion on that point.

10. Learned counsel for the respondent nos.1 to 4 has also argued that after retirement of the petitioner, the relationship between employer and employee ceases to exist, therefore, maintenance allowance of Rs.1850/- p.m. being paid to the wife of the applicant, was discontinued.

11. During the course of arguments, the respondent no.5 has filed her bank account details with the prayer that the amount, if any, is directed to be paid, then the same may be paid through her S.B. Account No.31099301311 of State Bank of India, Air Force, Bamrauli Branch, Allahabad.

12. Now we consider the point whether the petitioner is entitled to any interest on the amount of retiral dues, which were paid to him after a long gap. The petitioner has placed reliance on several pronouncements, but being a lay man, he could not appreciate the point involved in those cases, but he has drawn to our attention towards a pronouncement of Hon'ble Apex Court in the case of **Shree Hanuman Jute Mills & others vs. Brij Kishore Kela & others** [1987 (Supp) SCC 61]. In that case there was a delay in payment of money and in that perspective, the Hon'ble Supreme Court took judicial notice of fall in money value and to meet the ends of justice, awarded an interest @ 12% on the delayed payment.

13. Keeping in view the fact that payment of Rs.9,70,545/- was paid after considerable delay of several years and we take judicial notice in the fall of the money value during this long period, therefore, we consider that this loss of fall of money value, can be compensated by awarding simple interest @ 12% p.a. It is true that in the facts of this case, the respondent no.3 is not at fault in making the delayed payment, but the petitioner was their employee, so why he should suffer for such a delayed payment and particularly when he has conceded that the said amount be paid to the respondent no.5 for the welfare of his sons and daughters.

14. Without entering into the legality of the matter, in the interest of justice, we hereby **allow this T.A.** and direct the respondents to pay simple interest to the petitioner @ 12% p.a. on Rs.9,70,545/- from the date it became due till the date it was paid to the petitioner. We further direct the respondents to calculate the interest, as indicted above, within a period of three months from today and the said amount shall be credited in the bank account of the respondent no.5 (S.B. Account No.31099301311, State Bank of India, Air Force, Bamrauli Branch, Allahabad).

15. Registry is directed to provide copy of this order to the parties and also send the same to the other respondents for compliance.

16. No order as to costs.

(Lt Gen Gyan Bhushan)  
Member (A)

(Justice S.V.S.Rathore)  
Member (J)

Dated: November , 2017.  
PKG