

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-16723 of 2007 (O&M)
Date of decision : 10.07.2015

Kamal Raj Gupta

...Petitioner

V/S

State of Punjab and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Harbhajan Singh, Advocate for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab

Mr. Sarbjit Khaira, Advocate
for the respondent Nos.3 and 4

Ms. Gursharan Kaur, Advocate for
Mr. Amrit Paul, Advocate for the respondent No.5

Mr. Sameer Sachdeva, Advocate, Amicus Curiae

JITENDRA CHAUHAN, J. (Oral)

This Civil Writ Petition has been filed under Articles 226/227 of the Constitution of India for quashing of the order dated 05.02.2007 (Annexure P-4) passed by respondent No.4 whereby, the claim of the petitioner for retiral benefits i.e.arrears of gratuity, leave encashment and arrears on account of merger of 50% of dearness pay

with basic pay w.e.f 01.04.2004 to 30.09.2005 had been declined and for issuance of directions to the respondents to pay the same alongwith interest @18% per annum.

It is contended that on 01.10.1984 petitioner joined services with respondent No.3 and retired as Superintendent on 30.09.2005. Arrears of gratuity, leave encashment and arrears on account of merger of 50% of dearness allowance with basic pay w.e.f 01.04.2004 to 30.09.2005 have not been paid to the petitioner. For the redressal of his grievance, petitioner moved two representations, one dated 29.07.2006 (Annexure P-1) and another dated 29.08.2006 (Annexure P-2) which did not yield any result. Feeling aggrieved, the petitioner filed the CWP No.19789 of 2006 in this Court and vide order dated 14.12.2006 (Annexure P-3) the respondents were directed to decide the representations (Annexures P-1 and P-2). Thereafter, vide order dated 05.02.2007 (Annexure P-4), respondent No.4 has observed that the petitioner was not entitled to leave encashment, arrears of gratuity but with regard to merger of 50% of DA as DP the same was admitted with the observation that the same shall be paid as and when it would be finally released by the Government.

Learned counsel for the petitioner relies upon the judgments titled as **Ajmer Singh Vs. State of Punjab** 1996(2) SCT

399; **Shrimoni Gurudwara Prabhandak Committee Vs. Gurbax Singh and others** LPA No.1288 of 2012; **Mohan Singh Vs. State of Punjab and others** CWP No.10518 of 2003 and **Gurdial Kaur Padda Vs. State of Punjab and others** CWP No.149 of 2005.

On the other hand, the learned State counsel submits that respondent No.4 had paid gratuity to the tune of Rs.1,42,000/- (vide Cheque No.906863 dated 24.09.2005) in accordance with the rules mentioned in the University calendar and instructions of DPI (College) Punjab, Chandigarh, provisions of Guru Nanak Dev University Calendar to the petitioner. At the time of retirement, Rs.4673/- (vide Cheque No.988777 dated 04.11.2008) as arrears on account of merger of 50% of dearness allowance with basic pay w.e.f 01.04.2004 to 30.09.2005 had also been paid. He further states that there is no provision in the Guru Nanak Dev University Calendar for the leave encashment and the respondent-college is affiliated and governed by the calendar of the said University.

Learned Amicus Curiae placed reliance upon the judgment passed in **CWP No.788 of 2015** titled as **B. K. Sachdeva and others VS. State of Punjab and others**, decided on 28.01.2015, wherein the issue of leave encashment to the employees of private colleges affiliated to various universities in the State of Punjab was involved

and the same was dismissed by Hon'ble Division Bench of this Court.

Heard.

Keeping in view the fact that the petitioner has already been granted the admissible benefits i.e. Gratuity, arrears on account of merger of 50% of dearness allowance with basic pay w.e.f 01.04.2004 to 30.09.2005 and there being no provision in Guru Nanak Dev University Calendar with regards to the benefit of leave encashment, this petition is dismissed.

Dismissed.

10.07.2015

ashok

**(JITENDRA CHAUHAN)
JUDGE**

Whether referred to reporter? Yes/No.