

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

CWP-21233-2008

Date of decision : 18.03.2015

M.P. MITTAL

...Petitioner

V/S

STATE OF HARYANA AND ORS.

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. P. S. Bajwa, Advocate
for the petitioner.

Mr. Sourabh Mohunta, DAG, Haryana

JITENDRA CHAUHAN, J. (Oral)

This writ petition has been filed under Articles 226/227 of the Constitution of India for the issuance of a writ in the nature of certiorari quashing the impugned order dated 14.11.2008 (Annexure P-9) and for the issuance of a writ in the nature of Mandamus directing the respondents to pay interest @ 18% per annum to the petitioner on account of delayed payment of death-cum-retirement gratuity.

It is contended that the petitioner had joined as a Lecturer in the Department of Technical Education on 20.12.1978 and after attaining the age of superannuation he retired on 31.01.2002. It is further contended that an FIR No.18 dated 08.01.2002 was registered against Brij Mohan Singla, the Ex-Minister, Haryana and other four officials including the petitioner. But after investigation an untraced

report in the abovesaid FIR was filed and the same was accepted by the Ld. Judicial Magistrate Ist Class, Chandigarh. Thereafter, death cum retirement gratuity payment order dated 06.05.2008 was issued in favour of the petitioner but no interest on the delayed payment from 01.02.2002 to 13.05.2008 was paid to the petitioner.

On the other hand, learned State counsel states that the information regarding the exoneration of the petitioner from the charges levelled in the abovesaid FIR was received by respondent No.2 vide its letter dated 03.04.2008 and the case of the petitioner for release of gratuity and commutation of pension was considered without any delay. Therefore, he is not entitled for interest on the payment.

Heard.

In *The Financial Commissioner & Principal Secretary to Govt. Haryana, Irrigation Department, Civil Secretariat, Chandigarh and others Vs. Hasan Singh Kanwar, SDO, 2010 (1) SLR 788*, it has been held as under:-

“We are unable to appreciate this submission. Even if there was justification on account of pendency of proceedings, the respondent could not be deprived of interest which may have accrued on the amount. Compensatory interest and penal interest are on different footing. Direction for penal interest may be justified only if there was wrongful conduct but compensatory interest could be ordered for delay in making payment, to prevent unjust enrichment and also on the principle of restitution.”

In view of the above, the present petition is allowed in terms of Hasan Singh's case (supra) and the respondents are directed to pay the interest @ 8% on the delayed payment to the petitioner within a period of four months from the date of receipt of certified copy of this order.

18.03.2015

ashok

(JITENDRA CHAUHAN)
JUDGE

Whether referred to reporter= yes/no ?