

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

CWP-11115-2014

Date of decision : 19.03.2015

RAJ SINGH

...Petitioner

V/S

STATE OF PUNJAB AND ORS.

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

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

Mr. Luvinder Sofat, AAG, Punjab

JITENDRA CHAUHAN, J. (Oral)

This writ petition has been filed under Articles 226 and 227 of the Constitution of India for issuance of a writ in the nature of Mandamus for issuing a direction to the respondents to grant interest @18% per annum on the delayed payment of retiral benefits.

Learned State counsel submits that two FIRs i.e. FIR Nos.61 and 62 dated 26.11.1999 under Section 7, 13(1)d read with, 13 (2), 88 of the Prevention of Corruption Act read with Section 409, 467, 468, 471, 473 and 120-B IPC were registered at Police Station Vigilance Bureau, Jalandhar against more than 25 persons including petitioner and two other persons namely Shingara Singh and Sudesh Kumar. The co-accused Shingara Singh was exonerated and the charges against the petitioner were dropped on 09.02.2010. Petitioner filed

COCN No.2870 of 2011 which was disposed of with a direction to pay the interest on delayed payments w.e.f 01.05.2011 till actual payment of retiral benefits to the petitioner. The petitioner admittedly retired on 30.09.2007 and the charges against the petitioner were dropped on 09.02.2010. Similarly, co-accused Shingara Singh approached this Court vide CWP No.15700 of 2006 wherein Division Bench of this Court made the following observations:-

“We have heard learned counsel for the parties and have perused the record with their assistance.

From the resume of the facts narrated here-in-above, one thing is clear that the petitioner has knocked the door of this Court time and again for getting his retiral benefits. At one point of time writ petition filed by the petitioner in CWP No.18796 of 2003 was dismissed by this Court on 4.12.2003 on the ground that in view of Rule 9.14 (c) of the Punjab Civil Services Rules, Volume II, the amount of gratuity is not payable till the conclusion of criminal proceedings and it was also observed that criminal proceedings are pending against the petitioner. However, position has thereafter changed because on 4.12.2006, DSP Vigilance Bureau had produced challan under Section 173 Cr.P.C. in the Court in respect of FIR Nos.61 and 62 dated 26.11.1999 which are attached as Annexures P-13 and P-14 with the record in which name of the petitioner is conspicuously absent. Written statement filed by the respondents on 16.11.2006 is also prior

in time to the presentation of challan dated 4.12.2006 in which the State had taken a stand that the criminal proceedings are pending against the petitioner as a result of which the retiral benefits can not be released to him. There is no dispute with the rule of law as enumerated in Rule 9.14 (c) of the Punjab Civil Services Rules, Volume II, that no gratuity shall be paid to the Govt. employee till the conclusion of the departmental or judicial proceedings and issue final orders thereon. But in the present case, vide order Annexure P-9, departmental proceedings have already been dropped against the petitioner and so far as criminal proceedings are concerned, the petitioner has not been sent up as an accused to face trial, therefore, it can not be presumed by any stretch of imagination that the petitioner is facing criminal trial the conclusion of which has to be awaited for the purpose of releasing the gratuity or the retiral benefits. It is well settled that pension is not a bounty, payable on the sweet will and pleasure of the Government rather the right to pension is a valuable right vesting in a Government servant. It can not be withheld by the State by mere executive order in violation of the rules. Since neither any departmental proceedings nor criminal proceedings are pending against the petitioner as has been discussed here-in-above, this writ petition is allowed and the respondents are directed to release all the retiral benefits to the petitioner w.e.f. 1.11.2000 along with interest @ 9% p.a. from the date of

accrual till the date of payment. However, there shall be no order as to costs.”

Considering the fact that similar relief to the co-accused i.e. Shingara Singh has been allowed in CWP No.15700 of 2006 dated 28.05.2008 and the relief sought by the petitioner cannot be denied on the score of direction passed by this Court made in the COCP No.2870 of 2011. It is admitted case of the petitioner that the charges against the petitioner were dropped on 09.02.2010 while the petitioner retired on 30.09.2007. During the pendency of the COCP most of the payments were made by the answering respondents to the petitioner. Hence said COCP was disposed of vide order dated 15.05.2012 (Annexure P-3) with a direction to the respondents to pay interest on delayed payments w.e.f. 01.05.2011 till actual payment of the retiral benefits to the petitioner.

Accordingly, this petition is allowed with a direction to the respondents to pay the interest @ 9% on retiral benefits and whatever amount paid, shall be adjusted and remaining payment shall be paid within 4 months from the receipt of the certified copy of the order.

19.03.2015

ashok

**(JITENDRA CHAUHAN)
JUDGE**

Whether referred to reporter= yes/no ?