IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-17773-2013 (O&M)

Date of decision : 30.03.2015

Jangi Ram

...Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Ltd. and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Sushil Jain, Advocate,
for the petitioner.

Mr. P.S. Punia and Mr. Saurav Gulia, Advocates,
for the respondents.

JITENDRA CHAUHAN, J. (Oral)

Prayer in the present writ petition under Articles 226 and 227 of the Constitution of India is for release of retiral benefits i.e. gratuity, leave encashment, commutation of pension and pension.

At the very outset, the learned counsel for the respondents submits that in pursuance of order dated 26.02.2014, all the remaining retiral benefits have been released in favour of the petitioner on 24.03.2014, the details whereof, have been reflected in para No.4 of the affidavit dated 25.03.2014, which reads thus:-

> "4. That at present the petitioner is being paid 75% provisional pension and he has drawn

pension amounting to Rs.15255/- for the month of December, 2013. An extract copy of the Roll of Pay vide which the pension for the month of December, 2013 was paid to the petitioner is annexed herewith as Annexure RA-2. It is further noteworthy to mention here that 75% provisional pension being paid to the petitioner was revised vide CAO/Pension, UHBVNL, Panchkula vide PPO No.4592 dated 04.08.2006/22.01.2010 as per the revised Pension rules. The arrears of revised pension were paid to the petitioner vide cheque No.687886 dated 26.03.2010, amounting to Rs.72462/-, cheque No.750001 dated 28.12.2010 and cheque No.823295 dated 12.12.2011, each amounting to Rs.54,338/- drawn on State Bank of Patiala, Jind. It is further submitted that the final payment of G.P.F. amount of Rs.5,77,010/- vide cheque No.160306 dated 16.05.2006 drawn on State Bank of Patiala, Safidon was made to the petitioner. Further the cheque No.320217 for an amount of Rs.2,08,200/-, cheque No.320218 for an amount of Rs.3,43,530/-, cheque No.320219 for an amount of Rs.3,69,261/- and cheque No.320220 for an amount of Rs.3,16,945/- all dated 24.03.2014 have been

> issued to the petitioner with regard to leave encashment, DCRG, commutation of pension and difference of pension respectively by the office of Executive Engineer, DHBVN Safidon (Annexure RA-3). Thus all the payments to which the petitioner is entitled, have been made. The amount in question on the above aspects could not be released to the petitioner has he did not submit the utilization of material drawn by him during various postings. Therefore shortage of material to the tune of Rs.19,71,459/- has been shown against him."

The aforementioned position is admitted by the learned counsel for the petitioner. However, he submits that the petitioner retired on 28.02.2006, whereas, the retiral benefits have been released on 24.03.2014. Thus, he prays that interest on the delayed payment be allowed to him.

The learned counsel for the respondents states that the petitioner did not furnish the details of utilization of the material drawn by him while he was in service. However, as the petitioner was never show-caused with regard to the said amount, the Court is not inclined to comment on the same.

I have heard the rival contentions of the learned counsel for the parties.

In ***A.S. Randhawa Vs. State of Punjab, 1997(3) S.C.T. 468,*** Hon'ble Full Bench of this Court has held has under:-

> "8. Since a Government employee on his retirement becomes immediately entitled to pension and other benefits in terms of the Pension Rules, a duty is simultaneously cast on the State to ensure the disbursement of pension and other benefits to the retirer in proper time. As to what is proper time will depend on the facts and circumstances of each case but normally it would not exceed two months from the date of retirement which time limit has been laid down by the Apex Court in M. Padmanabhan Nair's case (supra). If the State commits any default in the performance of its duty thereby denying o the retiree the benefit of the immediate use of his money, there is no gainsaying the fact that he gets a right to be compensated and, in our opinion, the only way to compensate him is to pay him interest for the period of delay on the amount as was due to him on the date of retirement. Again, as to what should be the rate of interest, it should, in our view, be generally 12% unless the circumstances

of a particular case warrant the payment of a higher rate which may extend to even 18%."

Similar view has been taken by this Court in Kuldip Rai Vs. State of Punjab and others, CWP No.23143 of 2012, decided on 07.07.2014, wherein, it has been held as under:-

"9. Reverting back to the facts of the present case and respectfully following the law laid down by the Hon'ble Full Bench, this Court has no hesitation to conclude that since the delay in making the payment of retiral benefits in favour of the petitioner has been caused by the respondent-State, the petitioner is entitled to receive the retiral benefits along with interest. It is so said, because it was the money of the petitioner which was being used by the respondent-State."

Keeping in view the fact that the entire retiral benefits have now been released to the petitioner, the present writ petition has been rendered infructuous to the extent of payment of dues. However, the petitioner, if so advised, may move a representation before the respondents for grant of interest on the delayed payment within one month from the date of receipt of a certified copy of this order, the respondents shall deal with the same in accordance with law laid down in ***A.S. Randhawa 's case (supra)*** and ***Kuldip Rai's case (surpa),*** and take necessary action thereon, within a period of four months from the date of moving such representation.

Disposed of.

30.03.2015 **(JITENDRA CHAUHAN)**
atulsethi **JUDGE**