

CWP No. 3024 of 2011

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

CWP No. 3024 of 2011

Date of decision : 04.02.2015

Joginder Singh Ahlawat

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present:- Mr.D.S.Adlakha, Advocate
for the petitioner.

Mr. Sushil Gautam, DAG, Haryana.

AMOL RATTAN SINGH, J. (Oral)

1. This petition seeks payment of interest on account of delayed payment of retirement benefits to the petitioner, who retired from service on 31.03.2006, as a Soil Testing Officer. Prior to that, an FIR for an offence punishable under Section 7 of the Prevention of Corruption Act, 1987, had been registered against him on 25.06.2003. No sanction to prosecute the petitioner had been received by the competent authority on 10.11.2003, after which, however, sanction was given on 30.08.2004.

2. The said order was challenged by the petitioner by filing CWP No. 14680 of 2004, which was allowed on 16.11.2006 by a Division Bench of this Court, quashing the order sanctioning prosecution of the

petitioner under the Act of 1987. The aforesaid order dated 16.11.2006, is stated to have been challenged by the respondents before the Hon'ble Supreme Court and that challenge is still stated to be pending adjudication, in Civil Appeal No. 2738 of 2009. It is not denied that there is no stay operating on the judgment of this Court, dated 16.11.2006.

3. In the meanwhile, in view of the quashing of the order of sanction, the petitioner was discharged by the trial Court, vide order dated 03.07.2007.

4. Despite the above, the petitioner has still not been released his retirement benefits, though he had retired on 31.03.2006. He, therefore, filed CWP No. 19624 of 2009 (Annexure P-6), after having received no response to his representations seeking release of retirement benefits.

5. The aforesaid civil writ petition was disposed of by a Co-Ordinate Bench of this Court, vide order dated 18.12.2009 (Annexure P-6), directing the respondents to dispose of the representation/legal notice filed by the petitioner, within a period of 3 months. That not having done, the petitioner was constrained to file C.O.C.P. No. 2135 of 2010, which was disposed of as having been rendered infructuous vide order dated 18.01.2011 (Annexure P-10), as the petitioners' legal notice had been decided.

Upon query, learned counsel for the petitioner submits that though the order of this Court, dated 18.01.2011, states that the petitioners' legal notice had been decided and the petition has been rendered infructuous, actually no order deciding the petitioners' legal notice had been conveyed to him, though sanction of retirement benefits had been accorded, as per orders dated 16.12.2010 (Annexures P-8 and P-9).

6. Thus, pension was paid to the petitioner 4 years and 8 ½ months after his retirement.

7. In the above circumstances, the petitioner seeks payment of interest on delayed release of retirement benefits.

8. Dr. Sushil Gautam, learned DAG, Haryana, submits that since the order of this Court, quashing the sanction of criminal proceedings under the Prevention of Corruption Act, 1987, still remains under challenge, before the Hon'ble Supreme Court, hence on account of the same, the retirement benefits were not released till 16.12.2010, and that too subject to the outcome of the aforesaid civil appeal filed by the State.

9. Having considered the arguments put-forth by both the learned counsel, this petition, in my opinion, deserves to be partly allowed, to the extent that the petitioner would be entitled to interest on delayed payment of retirement benefits, atleast from the date of his discharge by the trial Court in criminal proceedings, as, admittedly, no order of stay was passed in the appeal/SLP filed by the State of Haryana, against the order of this Court dated 16.11.2006.

10. Thereafter, simply the pendency of the appeal in the Supreme Court, would be no ground to deny the petitioner payment of his retirement benefits, which should have been paid immediately after he was discharged from the criminal court and no stay was granted by the hon'ble Supreme Court in the appeal filed by the State of Haryana.

11. Consequently, this petition is partly allowed and the respondents are directed to release interest at statutory rates on provident fund and any other head of retirement benefits, as carry statutory rates, stipulated in the Punjab Civil Services Rules/the Punjab Financial Rules (as

applicable to the State of Haryana), and on all other heads of retirement benefits, paid to the petitioner after a delay, interest be paid @ 7% per annum, running from 01.08.2007 till the date that actual payment was made to him.

12. The aforesaid amount be paid to the petitioner within a period of 3 months from the date of receipt of a certified copy of this order.

13. It is, however, made clear that all payments made would, obviously, be subject to the outcome of the appeal stated to be pending in the Supreme Court, against the order of this Court dated 16.11.2006.

04.02.2015
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(AMOL RATTAN SINGH)
JUDGE