

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.19006 of 2015 (O&M)

Date of Decision: 09.09.2015

Bharpoor Singh

... Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Limited
and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. K.L. Dhingra, Advocate,
for the petitioner.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.

By this petition, the petitioner seeks a direction to the Nigam to release the amounts of gratuity and leave encashment which have been wrongfully withheld since his retirement from service on April 30, 2015. The claim is past dispute in view of the fact that the issue is no longer *res integra* and has been decided by this Court in judgments of the Full Bench, Division Benches and Single Benches, the true copies of which rulings are attached at Annexures P-6 to P-12 with the petition.

Mr. Dhingra prays that besides the aforesaid judgments the principles of recovery have been recently elaborately enunciated by Supreme Court in **State of Punjab vs. Rafiq Masih**, (2014) 8 SCC 883 and directions issued to the State of how to deal with cases of recovery of

money mistakenly overpaid and, therefore, it would waste time of this Court to issue notice of motion in this case only to elicit a response in a covered matter and instead he submits that a direction may be issued to the respondent-1-Nigam to consider and decide his client's representations pending since long unaddressed by the competent authority.

The request of Mr. Dhingra is found fair and reasonable and in the considered view of this Court, a direction should go to the respondent-1 – Nigam to consider and decide the pending representations submitted by the petitioner and in a time bound manner for which one month would be sufficient. In case, the decision-maker reaches the conclusion that the case of the petitioner is squarely covered by the decisions supra then the petitioner need not be heard and the decision can be operated by office orders and the monetary benefits due to the petitioner released within one month thereafter. In case an adverse order is contemplated then needless to say that affording an opportunity of effective hearing would become necessary so also the legal requirement of passing a speaking order.

The withheld amounts will carry interest @ 9% per annum from the date of the retirement till payment since gratuity is a one-time settlement and becomes due payable on the date of superannuation and ordinarily cannot be postponed except in cases of disciplinary action. This is also the case with payments on account leave encashment. In case any recoveries have been effected the amounts will be refunded within the set time frame as above carrying the same rate of interest. In case of default in payments/refund on both fronts as per this order interest will become payable @ 12 per cent per annum simple till actual realization.

With these directions, the petition stands disposed of.

(RAJIV NARAIN RAINA)
JUDGE

09.09.2015
manju