

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

CWP-20891 of 2014 (O&M)
Date of decision : 16.07.2015

Manohar Lal

...Petitioner

V/S

Punjab State Cooperative Supply and Marketing Federation Limited
and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Amit Sharma, Advocate for the petitioner

Mr. Luvinder Sofat, AAG, Punjab

Mr. Vikas Singh, Advocate for respondent No.1

JITENDRA CHAUHAN, J. (Oral)

Prayer is for release of gratuity and interest on the delayed payment of leave encashment which was paid on 04.04.2014 whereas it became due on 31.12.2012.

It is contended that the gratuity of the petitioner was withheld on account of arbitration proceedings. At the time of retirement, there was no inquiry or chargesheet pending against the petitioner. Subsequently, the recovery order dated 28.07.2014 (Annexure P-6) was passed, wherein an arbitration case for recovery of an amount of Rs.3,35,683/- (out of which Sh. Mahant Lal, Ex-F.O. is

responsible for 50% recovery) has been for excess use of bardana over & above the norms and on account of bill of restocking as reported by DM Markfed Sri Muktsar Sahib, but the same stands settled in favour of the petitioner.

On the other hand, the learned counsel for the respondents admits the factum of award passed in favour of the petitioner. However, he submits that the markfed has filed an appeal against the award.

Keeping in view the fact that the petitioner did not carry any stigma on the date of retirement and the case of alleged recovery stands settled in favour of the petitioner by the arbitrator, the pendency of the appeal against award of arbitrator cannot be allowed to circumvent the right of the petitioner for release of gratuity. Admittedly, there is delay in payment of leave encashment which was due on 31.12.2012 whereas the same was paid on 04.04.2014. Therefore, the petitioner is held entitled to interest @6% per annum on the delayed payment of leave encashment.

Accordingly, the present petition is allowed and the respondents are directed to make necessary payment, after calculating the same, within three months from the receipt of certified copy of this order.

16.07.2015

ashok

**(JITENDRA CHAUHAN)
JUDGE**