

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

(208)

CWP No.3860 of 2012  
Date of Decision:- 04.09.2015.

**DAV Sr. Sec. School, Karnal and another**

.....Petitioners

Versus

**State of Haryana and others**

.....Respondents

**CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Ashish Aggarwal, Advocate for the petitioners.

Mr. Sourabh Mohunta DAG, Haryana.

**P.B. BAJANTHRI, J. (Oral)**

In this petition, the petitioner has questioned the order dated 24.01.2012 passed by the Tribunal for Employees of Educational Institutions at Karnal, by which the petitioner has been directed to pay interest @ 9% per annum on the belated settlement of pensionary benefits to the 4<sup>th</sup> respondent. Feeling aggrieved by same, the present writ petition has been filed.

The 4<sup>th</sup> respondent was appointed as a S.S.Master in the petitioner's school on 07.07.1980 and retired on 30.09.2010.

For the purpose of settling the pensionary benefits how the pension papers were required to be send to the competent authority is

governed by two circulars. One is of dated 29.03.2001 and the other is 24.04.2008. Insofar as 2001 circular is concerned all the concerned educational Institutions were directed to send pension papers before one year from the date of employees' retirement. This was changed from one year to 15 days vide circular dated 24.04.2008. Since 4<sup>th</sup> respondent retired on 30.09.2010, the petitioner with reference to circular dated 24.04.2008 forwarded papers to the 2<sup>nd</sup> respondent on 02.11.2010. On 25.04.2011 pension papers of 4<sup>th</sup> respondent returned with certain objections. The same was received by the petitioner on 02.06.2011 and the objections were rectified and resubmitted to the 2<sup>nd</sup> respondent on 06.06.2011. Pursuant to the re-submission of pension papers, respondent No.2 has settled the pensionary benefits of 4<sup>th</sup> respondent on 08.12.2011. At this juncture, the petitioner disbursed 25% of the gratuity amount of the 4<sup>th</sup> respondent on 20.01.2012. In the meanwhile, 4<sup>th</sup> respondent approached Tribunal for Employees of Educational Institutions at Karnal seeking for releasing pensionary benefits. The same was decided on 24.01.2012. The Tribunal after perusal of the records held that the 2<sup>nd</sup> respondent is liable to pay 9% interest per annum on the belated settlement of retiral benefits from 21.06.2010 till realization. Hence, this petition.

Learned counsel for the petitioner vehemently contended that there is no lapse on the part of the petitioner for the reasons that the pension papers of the 4<sup>th</sup> respondent were forwarded to the 2<sup>nd</sup> respondent as per the Government's circular dated 24.04.2008 by which the petitioner was liable to forward the pension papers within 15 days. Thereafter, the objections raised by the 2<sup>nd</sup> respondent have been complied within 4 days i.e. on 06.06.2011.

Therefore, there is no fault on the part of the petitioner insofar as delay in

settlement of pensionary benefits is concerned.

Per contra, learned counsel for the State submitted that the State has considered the pension papers timely since there were objections in the pension papers therefore, the same was returned to the petitioner for compliance. Thus, the pensionary benefits were settled on 08.12.2011. Hence, some administrative delay in settling 4<sup>th</sup> respondents pensionary benefits.

At this stage, learned counsel for the petitioner submitted that the Tribunal has committed error in relying on the circular dated 29.03.2001 which was replaced by circular dated 24.04.2008 regarding submission of employees pension papers. Therefore, there is no fault on the part of the petitioner insofar delay in settlement of pensionary benefits to the 4<sup>th</sup> respondent.

Heard learned counsel for the parties.

Short question for consideration is whether there is a delay in settlement of retiral benefits of the 4<sup>th</sup> respondent. 4<sup>th</sup> respondent retired on 30.09.2010. The petitioner was duty bound to settle his 25% of the gratuity share amount directly to the employee. In the present case for no reason the petitioner released 25% of the gratuity amount on 20.01.2012. Therefore, there is no delay in settlement of 25% of the gratuity amount for which the 4<sup>th</sup> respondent is entitled to interest on the said amount. Ist respondent is directed to pay interest @ 9% per annum for the 25% gratuity amount from the date of retirement till 20.01.2012.

Insofar as other retiral benefits are concerned, there is a delay on the part of 2<sup>nd</sup> respondent for the reasons that necessary instructions should have been given to the educational institutions regarding sending of

pension papers with reference to old scale or new scale. In the absence of instructions, the petitioner followed the new pay scale and forwarded the pensionary papers to the 2<sup>nd</sup> respondent. The same was returned directing the petitioner to resubmit the papers with reference to old pay scale. Therefore, there is lapse on the part of 2<sup>nd</sup> respondent by not giving proper instructions to the educational institutions like the petitioner. Thus, there is a delay on the part of 2<sup>nd</sup> respondent in settling the pensionary benefits. Respondents No.1 and 2 are liable to pay interest on retiral benefits including on 75% of the gratuity amount to the 4<sup>th</sup> respondent from 01.12.2010 to 08.12.2011. In view of the above order, the order dated 24.01.2012 of the Tribunal for Employees of Educational Institutions is set aside.

Accordingly, the writ petition is disposed of.

**(P.B. BAJANTHRI)**  
**JUDGE**

**September 04, 2015.**

pooja saini