

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

CWP No.27456 of 2013

Date of Decision: 23.03.2015

Manohar Lal

....Petitioner

Versus

State of Punjab and others

....Respondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see the judgment ?**
- 2. To be referred to reporters or not ?**
- 3. Whether the judgment should be reported in the Digest ?**

Present:- Mr. Padamkant Dwivedi, Advocate
for the petitioner.

Mr. Rupam Aggarwal, D.A.G., Punjab
for the respondent-State.

DAYA CHAUDHARY, J.

The present petition has been filed for issuance of a writ in the nature of *certiorari* quashing impugned order dated 10.10.2013 (Annexure P-9), whereby, the representation of the petitioner has been rejected and interest on the delayed payment has been declined. A further prayer has also been made for issuance of a direction to the respondents to pay interest on the delayed payment of retiral benefits including gratuity, leave encashment, Group Insurance Scheme Funds and other benefits.

Petitioner was initially appointed as a Clerk with the respondent department and was regularized w.e.f 21.01.1982. Thereafter, he was promoted as Senior Assistant on 20.09.1988 and as Superintendent on 27.03.2012. Ultimately, he retired on 30.04.2012 on

attaining the age of superannuation. On retirement, the petitioner was not paid his retiral benefits in spite of making a representation. Thereafter, the petitioner filed **CWP No.20638 of 2012** for release of his gratuity, leave encashment, Group Insurance Scheme Funds and benefits of commutation of pension along with interest. Said petition was disposed of with a direction to decide the representation filed by the petitioner on 02.07.2012 by passing a speaking order. It was also mentioned in the order that in case, the petitioner is found to be entitled to various admissible pensionary benefits, the same shall be released to him without any delay. However, in spite of directions issued by this Court in the said writ petition, no benefit was given to the petitioner and hence, he filed **COCF No.3669 of 2012**. Thereafter, the petitioner was paid gratuity, leave encashment and amount of General Insurance Scheme but no interest was paid to him on delayed payment. He, therefore, served a legal notice upon the respondents to pay interest on the delayed payment but still the same was not paid. Thereafter, he filed **CWP No.12492 of 2013** seeking issuance of directions to the respondents for correct calculation of his retiral benefits as well as for payment of interest. Again a direction was issued on 30.05.2013 and respondent No.3 was directed to consider and decide the legal notice dated 05.04.2013 within a period of four months from the date of receipt of certified copy of the order. In spite of directions issued by this Court, the claim of the petitioner has been rejected, which is subject matter of challenge in the present petition.

Learned counsel for the respondent-State has not disputed about the writ petitions as well as contempt petition filed by the petitioner and also the fact that the payment was not made to him within a reasonable time after the date of his retirement i.e 30.04.2012. It has also not been disputed that the delay did not occur because of any fault on

part of the petitioner. The petitioner was released the following amount on 21.03.2013 :-

Gratuity	:	₹ 6,58,998/-
Revised Gratuity	:	₹ 29,204/-
Leave Encashment	:	₹ 4,68,270/-
G.I.S.	:	₹ 24,100/-

Admittedly, there is a delay on the part of the respondent-Department in releasing payment of retiral benefits as the petitioner retired from service on 30.04.2012 and the payment was released to him on 21.03.2013. There was a difference of calculation in the amount paid and due and for that also, the petitioner had to file another writ petition. The petitioner filed **CWP No.20638 of 2012, CWP No.12492 of 2013** as well as **COCOP No.3669 of 2012**. The present writ petition is fourth round of litigation, which shows that not only the delay is there in releasing payment but in spite of directions issued by this Court, interest has not been paid to him. It has also not been disputed by learned counsel for the respondent-State that all formalities were got completed by the petitioner before the date of his retirement and retiral benefits should have been released to him well in time i.e on the date of his retirement or within some reasonable period. Even after the date of retirement of the petitioner, the respondent-Department took more than eleven months. The petitioner is entitled for interest on the delayed payment, which shall be calculated after expiry of three months from the date of retirement as three months after retirement, which is a reasonable period as all formalities were completed by the petitioner before the date of his retirement. The petitioner is entitled for interest in view of ratio of law laid down in the judgment of Hon'ble the Apex Court in **D.D. Tewari(D) through LRs. vs Uttar Haryana Bijli Vitran Nigam Ltd. And others 2014 AIR (SC) 2861**, judgments of this Court in

cases ***A.S. Randhawa vs State of Punjab 1997(3) SCT 468, J.S. Cheema vs State of Haryana and others 2014(13) RCR (Civil) 355*** as well as judgment of Madhya Pradesh High Court in case ***Sudha Chhipa and others vs State of M.P and others 2014 LIC 2125***.

Seeing the conduct of the respondent-Department, the petitioner is also held entitled for litigation charges of ₹ 10,000/- other than the interest on delayed payment.

Accordingly, this petition is allowed and the impugned order dated 10.10.2013 (Annexure P-9) is set aside. However, the respondent-Department is directed to calculate the amount of interest @ 9% on the delayed payment after expiry of three months from the date of retirement of the petitioner till the payment was released. The amount of interest as well as litigation expenses be paid to the petitioner within a period of two months from the date of receipt of certified copy of this order.

Ordered accordingly.

23.03.2015
gurpreet

(DAYA CHAUDHARY)
JUDGE