

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP No.2980-2014

Date of Decision: 03.09.2015

DR. KAMAL KISHORE SHARMA

....Petitioner

VERSUS

STATE OF PUNJAB & ORS

....Respondents

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

Present: Mr. Rajesh Hooda, Advocate,
for the petitioner.

Mr. Vaibhav Sharma, DAG, Punjab.

P.B BAJANTHRI, J. (Oral)

In this writ petition, the petitioner has sought for the following relief:

Issue a writ in the nature of Mandamus directing the respondents to pay the withheld amount of Death-cum-Retirement Gratuity (DCRG) of Rs. 2,27,278/-, alongwith 18 % interest per annum from the date the same became due till its actual payment, as the same has wrongly and illegally been withheld without any notice or opportunity of hearing and without assigning any reason, despite the fact, that no departmental enquiry or proceedings were pending at the time of retirement of the petitioner or ever initiated against him during his service period.

The petitioner retired on 31.7.2010 while holding the post of Ayurvedic Medical Officer in the office of the second respondent.

His grievance is that entire gratuity amount to the tune of Rs. 8,60,112/- has not been disbursed even though it was sanctioned on 31.01.2011. He was paid a sum of Rs.5,73,517/- on 26.03.2011 and a sum of Rs. 59,317/- was paid on 28.05.2011, however, a sum of Rs. 2,27,278/- was not disbursed for the reasons that there was anomaly in pay fixation in the year 1996, however, pay fixation was done on 14.6.2010.

The learned State counsel submitted that notice was issued on 17.5.2010 before the retirement date of the petitioner but he did not respond to the notice and consequently on 14.06.2010 recovery order has been passed.

The respondents could not have ordered recovery from the gratuity on 14.06.2010 for the reasons that the petitioner was to retire on 31.07.2010. Gratuity amount is required to be disbursed only after retirement of an employee, in the present case after 31.07.2010.

In view of these facts and circumstances, the respondents are liable to release the withheld gratuity amount of Rs. 2,27,278/- and further the respondents have to calculate the interest @ 9 % per annum on the entire amount of Rs. 8,60,112/- which was disbursed

belatedly. The above exercise shall be done within a period of four weeks from the date of receipt of certified copy of the order.

The writ petition is, accordingly, disposed of.

03.09.2015

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**(P.B BAJANTHRI)
JUDGE**