

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

CWP No.7204 of 2014

Date of Decision: 27.03.2015

Jagdish Mitter and others

....Petitioners

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. G.S. Sandhu, Advocate
for the petitioners.

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

Mr. Piyush Sharma, Advocate
for respondents No.4 and 5.

DAYA CHAUDHARY, J.

Petitioners have filed the present petition for issuance of a writ in the nature of *certiorari* for setting aside the order dated 14.11.2013 (Annexure P-5) passed by respondent No.4, whereby, the claim of the petitioners for grant of interest has been declined with a further prayer for issuance of a writ in the nature of *mandamus* directing respondents to grant interest on the delayed payment.

Petitioner no.1 was working as a Clerk and retired from service on 30.11.2011; petitioner No.2 was working as an Inspector and retired on 31.03.2012; petitioner No.3-Amardeep Dhir, son of deceased employee-

Vinod Kumar Dhir, who was working as a Clerk and retired from service on 30.04.2010; petitioner No.4 was working as a Mate and retired on 31.12.2010; petitioner No.5 was working as a Clerk and retired from her post on 22.06.2010 and petitioner No.6-Switary was working as a Sweeper and retired on 31.12.2010.

The grievance of the petitioners is that they were not given gratuity, leave encashment and arrears of pay as per Sixth Pay Commission in spite of making repeated representations by them. Thereafter, legal notices were served by the petitioners upon the respondents but still no action was taken. Ultimately, they filed **CWP No.23708 of 2012**, which was disposed of vide Order dated 03.12.2012 with a direction to the respondents to take action on the legal notice within a period of four months from the date of receipt of certified copy of the order.

Learned counsel for the petitioners submits that in spite of policy decision dated 12.06.2012 taken by the State Government to release the retiral benefits within a period of three months, no action was taken. Subsequently, after considering the directions issued by this Court, the retiral benefits were released to the petitioners but no interest thereupon was paid to them. Therefore, the petitioners again moved a representation but to no avail. Thereafter, the petitioners filed **CWP No.20723 of 2013**, which was disposed of vide Order dated 18.09.2013 with a direction to the respondents to consider the claim of the petitioners as set out by them in the representation and to take a conscious decision. The claim of the petitioners for grant of interest was declined vide Order dated 14.11.2013 passed by respondent No.4, which is subject matter of challenge before this Court in the present petition.

Learned counsel for the petitioners submits that the petitioners

are entitled for interest in view of judgment of Full Bench of this Court in case ***R.S. Randhawa vs State of Punjab 1997(3) RSJ 318*** as well as judgment passed in ***Surjeet Singh vs State of Punjab 2012(4) RSJ 515***.

In response to notice of motion, reply has been filed by the State as well as by the respondents-Municipal Council, Sultanpur Lodhi.

Learned counsel for respondents No.4 and 5 submits that the petitioners have been released all benefits and delay occurred due to poor financial condition of the Municipal Council. He further submits that all benefits have been released to the petitioners as per directions issued by this Court. He also submits that no interest was demanded in the legal notice and hence, the question of granting interest does not arise.

Similarly, learned counsel for the respondent-State submits that the present petition is liable to be dismissed as it is barred by *res-judicata*. He further submits that the petitioners have earlier filed a writ petition and in view of directions issued by this Court in the said writ petition, all retiral benefits have been released to the petitioners. He also submits that the retiral benefits were to be released by the Municipal Council and the answering respondent was having no knowledge.

Heard the arguments of learned counsel for the parties and have also gone through the file.

Admittedly, the present petition is third round of litigation as the petitioners earlier filed ***CWP NO.23708 of 2012*** as well as ***CWP No.20723 of 2013***. In spite of earlier directions, firstly the retiral benefits were not released to the petitioners and thereafter, the interest thereupon was not paid to them and hence, they have been compelled to file third writ petition for grant of interest in view of judgments passed in ***R.S. Randhawa's*** case (supra) as well as ***Surjeet Singh's*** case (supra).

Undisputedly, there is delay in releasing the retiral benefits and

nothing has been shown that the same occurred due to the fault of the petitioners. As per policy decision dated 12.06.2012, the retiral benefits are to be released within a period of three months but in spite of that, the same were not released. As per ratio of judgment in **R.S. Randhawa's** case (supra) that in case, there is a default in payment of pensionary/retiral benefits, the concerned employee is entitled for interest. The said judgment has been followed in **Surjeet Singh's** case (supra).

Accordingly, this petition is allowed and the impugned order dated 14.11.2013 (Annexure P-5) passed by respondent No.4 is set aside and the respondent-Municipal Council is directed to grant interest to the petitioners @ 9% p.a on expiry of period of three months from the date of their retirement till the payment is made.

27.03.2015
gurpreet

(DAYA CHAUDHARY)
JUDGE