

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

CWP No.8314 of 2014

Date of decision: 11.05.2015.

Kulwant Singh Malhi

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see judgment? Yes/No**
- 2. To be referred to reporters or not? Yes/No**
- 3. Whether the judgment should be reported in the Digest? Yes/No**

Present: Mr. Lalit Pathak, Advocate
for the petitioner.

Mr. P.P.S. Thethi, Addl. A.G., Punjab
for the respondents – State.

Daya Chaudhary, J. (Oral)

The petitioner retired from service on 30.04.2012 on attaining age of superannuation. The amount of leave encashment has not been paid, therefore, he approached this Court by way of filing CWP No.12002 of 2013, which was disposed of vide order dated 29.05.2013 with a direction to respondent No.3 to decide the representation dated 01.01.2013.

In compliance of order dated 29.05.2013, the retiral benefits were released to the petitioner on 08.07.2013.

Learned counsel for the petitioner submits that there is

delay of 1 year and 2 months in releasing the retiral benefits and the petitioner is also entitled for interest on the delayed amount.

Learned State counsel submits that the delay, which has occurred, is only procedural and after disposal of earlier writ petition filed by the petitioner, his case was considered and all retiral benefits were released to him and it cannot be said that the delay was intentional on the part of the respondents. Learned State counsel also submits that the claim of the petitioner with regard to interest has also been rejected and the same has not been challenged.

Learned counsel for the petitioner submits that order of declining interest was not conveyed to the petitioner and the retiral benefits were released only after disposal of the earlier writ petition whereas it was specifically ordered to release all retiral benefits along with all consequential benefits.

Heard arguments of learned counsel for the petitioner as well as learned State counsel.

Admittedly, the petitioner retired from service on 30.04.2012 on attaining age of superannuation. In spite of making representation by the petitioner, the retiral benefits were not released to him. Thereafter, the petitioner filed CWP No.12002 of 2013 before this Court, which was disposed of vide order dated 29.05.2013 with a direction to respondent No.3 to consider and decide the representation of the petitioner within a period of three months from the date of receipt of certified copy of the order. The petitioner moved

representation before respondent No.3 to release amount of leave encashment along with interest @ 18% per annum but only amount of leave encashment was released, that too after delay of 1 year and 2 months. It cannot be said that there was delay on the part of the petitioner in any manner and to say that the delay has occurred due to procedure cannot be accepted as the employer is duty bound to release all the retiral benefits immediately after retirement or within some reasonable time. All necessary formalities were to be completed before the date of retirement. At the most, it can be said that some reasonable time is to be taken in releasing the benefits but in the present case, the retiral benefits have been released after a delay of 1 year and 2 months and that too, after filing of present writ petition as well as the earlier petition.

A prayer for grant of interest on the delayed payment was also made in the earlier petition but only the retiral benefits were released and not the interest, which compelled the petitioner to file the present writ petition for grant of interest on the delayed payment.

Learned State counsel has opposed the prayer of the petitioner only on the ground that the delay has occurred due to procedure and the petitioner is not entitled for interest but delay of 1 year and 2 months in releasing the benefits has not been disputed.

Although vide order dated 29.05.2013, a direction was issued by this Court in the earlier petition to respondent No.3 to consider the claim of the petitioner in accordance with law within a

period of three months and in case, the claim of the petitioner is not to be accepted then a well reasoned and speaking order be passed and conveyed to the petitioner forthwith. The retiral benefits have been released to the petitioner but nothing has been said on interest whereas there was delay in releasing the benefits.

Accordingly, the present writ petition is allowed and the petitioner is held entitled for interest @ 9% after expiry of three months from the date of retirement till the payment has been released. The respondents are directed to release the payment of interest within a period of two months from the date of receipt of certified copy of this order.

11.05.2015
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(DAYA CHAUDHARY)
JUDGE