

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

CWP-9780-2013

Date of decision : 12.03.2015

Sukhjinder Singh

...Petitioner

V/S

State of Punjab and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Harinder Sharma, Advocate
for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab

JITENDRA CHAUHAN, J. (Oral)

This writ petition filed under Article 226 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to release the retiral benefits i.e. the gratuity, 100% pension (commuted and regular as well), to make the payment of leave encashment forthwith in terms of the pay fixed by respondent No.2 vide order dated 25.09.2012 along with interest @ 12% per annum.

Learned counsel for the petitioner submits that petitioner a Lecturer of Punjabi in the Department of Higher Education of the Government of Punjab, retired on 31.07.2012 on attaining the age of superannuation. Vide order dated 25.10.2012, respondent No.2 had only sanctioned the amount of leave encashment but till date its amount

had not been disbursed for want of clearance of payment bill by the office of respondent No.4. Thereafter, petitioner served the respondents with a legal notice dated 19.03.2013 (Annexure P-2) and instead of releasing 100% pension to the petitioner, the respondent No.2 vide order dated 18.03.2013 released 90% provisional pension to the petitioner.

Respondent No.2 vide letter dated 05.04.2013 (Annexure P-4) conveyed the petitioner that in view of the pendency of enquiry report sent by the Punjab Human Rights Commission on a complaint by a female student against the petitioner was pending with the Government, the pension case of the petitioner could not be sent to the Accountant General, Punjab for the sanction. On 08.06.2012 petitioner appeared before the Inquiry Officer and submitted his explanation. Thereafter, the petitioner never received any notice or summon from the Punjab State Women Commission or the Human Rights Commission.

It is further contends that as per Rule 9.13 of Chapter-IX of the Punjab Civil Service Rules (Vol-II) i.e. Interest on delayed payment of gratuity, interest @ 10% on the statutory interest is to be paid on gratuity, which reads as under:

9.13 Interest on delayed payment of gratuity.

(1) If the payment of gratuity has been authorised after three months from the date when its payment became due, and it is clearly established after the delay in payment was due to administrative lapse, then an interest at the rate of (10%) per annum on the amount of gratuity shall be paid to the

Government employee in respect of the period beyond three months :

Provided that the delay in the payment was not caused on account of failure on the part of the Government employee to comply with the procedure laid down in this Chapter.

(2) Every case of delayed payment of gratuity shall, suo motu be considered by the Administrative Department or the Department, as the case may be, and where the Administrative Department is satisfied that the delay in the payment of gratuity was caused on account of administrative lapse, the Administrative Department shall make a recommendation to the Department of Finance, Punjab for the payment of interest.

(3) If the recommendation of the Administrative Department made under sub-rule (2) is accepted by the Department of Finance, Punjab, the Administrative Department concerned shall issue sanction for the payment of interest.

(4) In all cases where the payment of interest has been authorized with concurrence of the Department of Finance, Punjab, the Administrative Department concerned shall fix the responsibility and take disciplinary action against the Government employee or employees concerned, who are found responsible for the delay in the payment of gratuity.

(5) If as a result of Government's decision taken subsequent to the retirement of a Government employee, the amount of gratuity already paid on his retirement, is enhanced on account of--

(a) grant of emoluments higher than the emoluments on which gratuity, already paid, was determined; or

(b) liberalization in the provisions of these rules from a date prior to the date of retirement of the Government employee

concerned, no interest on the arrears of gratuity shall be paid.

Learned State counsel admits the fact that after the aforesaid explanation, petitioner has not been served with any notice or summon.

Keeping in view the aforesaid facts and circumstances, the present writ petition is allowed with a direction to the respondent No.2 to release all admissible benefits to the petitioner with interest @ 8% per annum and according to Rule 9.13 Chapter-IX of the Punjab Civil Service Rules (Vol-II), petitioner is also entitled for the statutory interest @ 10% on the gratuity for his service period. Therefore, respondent No.2 further directed to release the gratuity with interest @ 10% for his service period.

12.03.2015
ashok

(JITENDRA CHAUHAN)
JUDGE

Whether referred to reporter= yes/no ?