

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

LPA No.523 of 2015 (O&M)

Malook Singh -----Appellant

Versus

State of Punjab and others -----Respondents

and

CWP No.5604 of 2013 (O&M)

Malook Singh -----Petitioner

Versus

State of Punjab and others -----Respondents

Date of decision: July 27, 2015

**CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL
HON'BLE MR.JUSTICE HARINDER SINGH SIDHU**

Present:- Mr.Dilbagh Singh, Advocate
for the appellant.

Mr.B.S. Chahal, DAG, Punjab

HARINDER SINGH SIDHU, J.

CM-1058-LPA-2015 in LPA-523-2015:

There is delay of 1039 days in filing the appeal and the appellant has filed this application for condoning the same.

For the reasons mentioned in the application and having heard learned counsel for the parties, we find sufficient grounds to condone the delay. The application is allowed accordingly.

Main case:

This judgment shall dispose of two cases i.e. LPA No.523 of 2015 and CWP No.5604 of 2013, both filed by Malook Singh, a retired Superintendent (Grade-I) from the Education Department, Punjab.

For decision, the facts are being taken from the appeal.

The intra-Court appeal under Clause X of the Letters Patent has been filed against the order dated 02.03.2015 whereby, the review application No.660 of 2014 seeking review of the order dated 25.04.2012 passed in CWP No.7504 of 2012 and claiming that interest should be awarded to him on the delayed payment of the retiral benefits, was dismissed.

The appellant retired from the post of Superintendent Grade-I on attaining the age of superannuation on 29.02.2008. Before his retirement, one FIR No.47 dated 23.09.2004 under various provisions of the Indian Penal Code and Prevention of Corruption Act was registered by the Vigilance Department. The appellant was not named in the FIR. A challan was presented on 06.09.2010 wherein also the appellant was not arrayed as an accused. He was not paid his retiral dues on his retirement. It was only on 27.03.2012 that retirement gratuity was released to him. The other outstanding benefits of commutation of pension, leave encashment were still not released on the plea that a vigilance case was pending against him.

Aggrieved, he filed CWP No.7504 of 2012 praying for

release of all outstanding pensionary benefits with interest as had been directed in the case **Ravinder Singh Bawa Vs. State of Punjab and others** (CWP No.19026 of 2010 decided on 28.04.2011). The petition was disposed of vide order dated 25.04.2012. The appellant was given liberty to move a comprehensive representation within a period of ten days. The respondents were directed to pass a speaking order thereon within a period of two months thereafter and release the benefits to which the appellant was found entitled within the aforesaid period. It was directed that in case admissible benefits were not released within the aforesaid period, the appellant would be entitled to interest at the rate of 8% on the amount from the date it fell due.

The appellant submitted a representation, which was disposed of vide speaking order dated 30.10.2012, wherein, it was recorded that the payment towards pension and gratuity has been made to the appellant within the time as directed by the Court and no interest was payable thereon. There was some delay in making 25% leave encashment and the same would be released after verifying from the Finance Department.

The appellant thereupon filed CWP No.5604 of 2013 for quashing the speaking order to the extent that interest had not been paid on the delayed payment of retiral benefit and further seeking direction to the respondents to pay interest for the delayed payment of retiral dues. The said writ petition was adjourned on the statement of the Ld. Counsel for the appellant that he would file an application

seeking review of order dated 25.04.2012 passed in CWP No.7504 of 2012, wherein, interest has been ordered to be paid on the delayed payment of pensionary benefits only if the said payment was not made within a period of two months of submitting the representation by the appellant. The appellant filed the review petition, which has been dismissed vide order dated 02.03.2015. It is this order, which has been impugned in the present appeal. Vide order dated 21.07.2015, CWP No.5604 of 2013 was also directed to be listed along with this case.

Learned counsel for the appellant relies on order dated 28.04.2011 passed in **CWP No.19026 of 2010** titled **“Ravinder Singh Bawa Vs. State of Punjab and others”**. In that case, pensionary benefits had been withheld on account of pendency of the same vigilance case which has been relied upon in the case of the appellant. This Court held that when at the time of retirement no criminal/ departmental proceedings were pending and challan was presented in the criminal case much after retirement, there was no justification to withhold the pensionary/ retiral benefits. The respondents were directed to settle the pensionary/ retiral benefits within two months and interest at the rate of 6% per annum on the delayed payment of pensionary/ retiral benefits was directed to be paid.

Ld. Counsel states that relying on the aforesaid decision, review applications in CWP No.20986 of 2012 and CWP No. 23441 of 2013 filed by Balwant Singh and Jaspal Singh, who were similarly

situated as the said Ravinder Singh Bawa were allowed and the respondent-State was directed to pay the interest on the delayed period at the same rate as directed in the case of **Ravinder Singh Bawa's case (supra)**. He states that the appellant has been wrongly denied interest on the delayed payment.

We have heard learned counsel for the parties.

The case of the appellant is similar to the aforementioned cases, wherein, unconditional interest has been directed to be paid for the delayed payment of the retiral dues. He is entitled to the same relief.

Accordingly, this appeal is partly allowed. The order dated 25.04.2012 passed in CWP No.7504 of 2012 is modified to the extent that the appellant is entitled to interest at the rate of 6% on the delayed payment of his retiral dues from the date they became due.

In view of the relief granted in the LPA, the writ petition has become infructuous and is disposed of as such.

(SATISH KUMAR MITTAL) (HARINDER SINGH SIDHU)
JUDGE JUDGE

July 27, 2015

Atul