

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

**C.W.P No. 118 of 2001**

**Date of decision : 27.04.2016**

**B.R. Mittal**

**...Petitioner**

**versus**

**State of Haryana & others**

**..Respondents**

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. D.R. Bansal, Advocate, for the petitioner.

Mr. Hitesh Pandit, Addl.A.G. Haryana

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**RITU BAHRI , J. (Oral)**

The present petition is for issuance of direction to the respondents to release the pension, commutation of pension, gratuity GIS and other pensionary benefits.

Petitioner joined the respondent-department as Jr. Engineer and was promoted as SDO on 19.03.1990. Subsequently, petitioner was served with a charge sheet to which he replied on 02.04.1990. After completing 20 years of service, petitioner served a three months notice seeking voluntarily retirement w.e.f 30.04.1996, which was not accepted by the respondent-department and the petitioner filed civil suit, which was dismissed and appeal was also dismissal. The appeal filed against

the above said order is ordered to be heard along with present petition.

During the pendency of first appeal, the respondent-department served another charge sheet vide letter dated 17.08.1998 to which the petitioner submitted reply but nothing happened. Petitioner then filed CWP no. 10823 of 1999 for quashing the charge sheets served upon him. During the pendency of the writ petition, both the charge sheets were dropped and the writ petition was ordered to be dismissed as having become infructuous.

The petitioner thereafter retired on 31.05.1999 but he had not paid the retiral benefits till date.

On notice, a written statement has been filed on behalf of respondent Nos. 1 to 3 stating that the petitioner was not voluntarily retired earlier as two disciplinary cases/inquiry cases were pending against him involving huge financial loss, as per Annexure R-1. His case for voluntary retirement was rejected, vide order dated 07.10.1997 (R-II). It has further been submitted that despite the fact that the case of the petitioner for voluntarily retirement was rejected by the competent authority, petitioner absented himself from duties w.e.f 25.06.1996 till 31.05.1999 i.e date of his retirement. However, the authorities by taking a lenient view treated his period as leave of kind due, vide order dated 22.05.2000 (P-4). Thereafter, petitioner submitted his pension papers on

03.07.2000 with respondent No. 2, who on further sent his case to respondent No. 4. The pension pay order was issued on 10.07.2001. Petitioner has been released his death-cum-retirement gratuity vide order dated 22.06.2001, 11.07.2001 (R-IV). Reference has been made to instructions dated 04.01.1985 and according to which, if the Government employee wants to have benefit of commutation of pension, he must exercise his option within six months of his retirement, which the petitioner did not exercise within six months and thus was not permitted to commute his pension.

Learned counsel for the petitioner has argued that the petitioner had given his pension papers on 25.06.1999 (P-6) and as per letter dated 02.08.1999, the petitioner has not got regularised the service for the period from 01.11.1996 to 31.05.1999, which was treated as non qualifying period for the pension. Hence, his pension case was not finalised. Reference has now been made to order dated 22.05.2000 (P-4) whereby the authorities by taking a lenient view treated his period as leave of kind due. Thereafter, petitioner submitted his pension papers on 03.07.2000 with respondent No. 2 and the pension pay order was issued in his favour on 10.07.2001. The procedural delay of 01 year cannot be attributed to the department, as initially petitioner was facing two disciplinary proceedings and his application seeking

voluntarily retirement was rejected. Subsequently, later on the disciplinary proceedings were dropped by the department by taking a lenient view on 03.11.1999 and 04.05.2000. There is no delay on the part of the department, as the authorities by taking a lenient view treated his period as leave of kind due, vide order dated 22.05.2000 (P-4) and immediately, the pension pay order was issued in his favour on 10.07.2001.

With regard to the claim of the petitioner, that he has been granted payment of earned leave of 180 days instead of 190 days. This claim is also rejected, in view of the affidavit filed on 28.11.2001 wherein it has been stated that the petitioner had rightly been paid the leave encashment for 180 days, as per his leave account (R-1). Further the petitioner applied for commutation of pension on 03.07.2000 although he was retired on 31.05.1999, thus he failed to comply with the instruction dated 04.01.1985.

The writ petition is dismissed accordingly.

**(RITU BAHRI)**  
**JUDGE**

**27.04.2016**

G Arora