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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 2643 of 1999 (O/M)

Date of decision : 6.12.2016

Rabinder Kumar Abbi

..... Petitioner (s)

Versus

State of Punjab and others

..... Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Namit Kumar, Advocate, for the petitioner.

Mr. R.S. Pathania, Deputy A.G. Punjab.

Mr. Rohit Joshi, Advocate, for respondent No. 2.

Mr. Kanwardeep Singh, Advocate, for,
Mr. S.S. Narula, Advocate, for respondent No. 3.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

The petitioner was working as a Superintendent in Guru Nanak Dev Engineering College, Gill Road, Ludhiana, and retired as such on 31.1.1994 after rendering 34 years of service. The claim of the petitioner is that he has been paid gratuity amounting to Rs. 38,280/- on the basis of his basic pay and not on the basis of last pay drawn, whereas leave encashment has not been paid. It is claimed that as per Regulation 13.1 (i) of the Panjab University Calendar, Volume-I, 1989, the gratuity is to be paid on the last pay drawn and the same is the case of leave encashment.

The said college (respondent No. 2 herein) is affiliated to

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Panjab University. The Panjab University in the written statement has not denied the said regulation and stated that the gratuity and the leave encashment have to be paid in terms of Regulation 13.1 (i) of the Panjab University Calendar, Volume-I, 1989. Respondent No. 2 has also taken specific stand that it is to be paid on basic pay. It is stated that the judgment of this Court regarding leave encashment is pending before the Apex Court.

I have heard the learned counsels for the parties and have also carefully gone through the file.

Regulation 13.1 (i) of the Panjab University Calendar, Volume-I, 1989 :-

“13.1 (i) In addition to the benefits of the Provident funds, teacher at the time of retirement shall be granted by the Governing body, a gratuity of a sum equivalent to one fourth of his pay **last drawn** for each completed six monthly period of qualifying service subject to 16 ½ (sixteen and half) times the pay provided that in no case gratuity shall exceed the amount as fixed by the Punjab Government from time to time, for its employees.”

The abovesaid regulation makes it clear that the gratuity is to be paid as per the last pay drawn, whereas it was paid by respondent No. 2 on the basis of the basic pay. Therefore, the petitioner is entitled to the gratuity on the basis of last pay drawn and the arrears of gratuity are to be paid with interest at the rate of 9% per annum.

Regarding the gratuity and leave encashment, the matter is settled by a Division Bench of this Court in Ajmer Singh Versus State of Punjab, 1996 (2) SCT 399. Hence, the petitioner is also entitled to leave encashment on the basis of last pay drawn.

As such the present writ petition is allowed. The respondent

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No. 2 is ordered to pay balance of gratuity and entire amount of leave encashment on the basis of last pay drawn with interest at the rate of 9% per annum on the delayed payment of gratuity made earlier within three months from the date of retirement till payment.

(KULDIP SINGH)
JUDGE

6.12.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : Yes