

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

CWP No. 5955 of 2006

Date of decision : 11.01.2016

Joginder Masih

...Petitioner

versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ishwar Lal, Advocate
for the petitioner.

Mr. Jangsher Bhullar, Addl.A.G. Punjab

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RITU BAHRI , J.

Petitioner- Joginder Masih has approached this Court by way of instant writ petition filed under Articles 226/227 of the Constitution of India, seeking a writ in the nature of mandamus for directing the respondents to release all the pensionary benefits i. Gratuity, GPF, Leave Encashment etc along with interest @ 18% per annum on delayed payments.

The petitioner joined service in 1968 as Clerk cum Typist with District and Sessions Judge, Jalandhar and retired on 30.04.2005 on attaining the age of superannuation. While working as Library Assistant

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in the District and Sessions Court at Jalandhar, the petitioner was asked to hand over the charge of Library to Sh. Major Singh, vide letter dated 22.04.2003 and on 01.05.2003, the petitioner handed over the charge to Major Singh along with Audit and Inspection Notes etc (P-1), who further handed over the charge to Rajinder Paul Chodha on 07.07.2003. Thereafter, the charge of Library was handed over to Rajinder Kumar on 24.07.2003, who submitted a letter to District and Sessions Court at Jalandhar that Rajinder Paul Chodha have not handed over the charge property and without tallying the lists of books as per register maintained in the office. It is further reported that 451 books are torn/eaten by white ants. Respondent No. 2 called the explanation from all the Library Assistants including the petitioner. Separate replies were filed by the Library Assistants. Pending this enquiry, the petitioner attained the age of superannuation and retired on 30.04.2005.

Thereafter, as per Rules, PP dated 03.01.2005 for the release of pension of Rs.5910/- per month to the petitioner was issued by A.G. Punjab, respondent No. 3 (P-2) but respondent No. 2 withheld the same and asked respondent No. 3 to release provisional pension order, vide letter dated 05.08.2005 (P-3), which was denied by respondent No. 3 and further asked respondent No. 2 to take appropriate step as per law and release the pensionary benefits to the petitioner, vide letter (P-4).

On notice, a written statement has been filed on behalf of respondent Nos. 1 to 3, who admitted the joining of the petitioner on 03.08.1968 and his superannuation on 30.04.2005 but it was stated that his case for pension was sent to A.G. (Punjab) which was finalized vide PPO No. 1178799/Pb dated 03.01.2005. In the meantime, the petitioner was served with a charge sheet for loss/damage of about 1000 law books during his posting as Library Assistant and thereafter, a regular departmental inquiry was ordered, which is pending before District and Sessions Judge, Jalandhar. An intimation in this regard was sent to A.G. (A&E) Punjab, Chandigarh vide office letter dated 19.04.2005 (R-1) well before the retirement of the petitioner. The A.G. (A&E) Punjab, Chandigarh vide letter dated 07.06.2005 withdrawn the authority letter for the payment of pension and gratuity. Thereafter A.G. Punjab, Chandigarh vide letter dated 30.09.2005 (R-2) desired from the office to grant provisional pension which was allowed vide office order dated 21.11.2003 (R-3). The bill for withdrawal of provisional pension of Rs.73538/- was then sent to District Treasury Office, for passing the payment but the same has been returned for want of unemployment certificate from the petitioner. The petitioner was informed about this, vide office memo dated 21.04.2006 (R-4).

Learned counsel for the petitioner contends that as per

settled law, the pensionary benefits are to be released to the retiree within three months from the date of retirement but till day, retirement benefits of the petitioner have not been released.

Heard learned counsel for the petitioner.

In compliance of order dated 19.02.2015, an application was filed by learned State counsel for placing on record the affidavit of District and Sessions Judge, Jalandhar whereby the details of the payment made to the petitioner was given in para No 2 of the reply, which reads as under:-

Date of Retirement		30.04.2005
Date on which disciplinary proceedings finalised		28.04.2007
Date on which pension case was again sent to AG after finalisation of enquiry proceedings		01/06/07
Date on which pension case was finalised by A.G. Office		15.04.2008

It has further been stated that payment of G.P. Fund Rs.5,17,700/- was paid to the petitioner vide voucher No. 467 dated 20.06.2005. The payment of leave encashment of Rs.1,38,290/- was paid to the petitioner vide voucher No. 188 dated 20.06.2007 and the payment of death-cum-retirement gratuity, was paid to the petitioner vide voucher No. 261 dated 21.05.2008

In view of the above affidavit, there is no delay in releasing the payment of G.P. Fund and leave encashment by the respondents. As

far as releasing of payment of Death-cum-Retirement Gratuity is concerned, after the enquiry was finalised on 28.04.2007, at the most 03 months should have been taken by the department to release the amount of Rs.1,38,290/- but the same has been released on 21.05.2008. Thus, the department has taken almost 01 year to release this amount.

Reference at this stage can be made to a judgment of Hon'ble the Supreme Court of India in cases ***of D.D. Tewari (D) through LRs vs. Uttar Haryana Bijli Vitran Nigam Ltd. and others, 2014 AIR (SC) 2861 and Megh Varan Sharma vs. State of U.P and others, 2015 (1) S.C.T (12)*** wherein payment of retiral benefit was delayed by the respondent-department and it has been held that the petitioner was entitled to interest @ 9% per annum from the date of entitlement till the date of actual payment.

Applying the ratio of the above mentioned judgments, this petition is being ***disposed of*** by awarding interest at the rate of 9% on the delayed payment of Rs.1,38,290/- towards Death-cum-Retirement Gratuity w.e.f 28.07.2007 till 21.05.2008.

(RITU BAHRI)
JUDGE

11.01.2016

G Arora