

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

**CWP No. 10673 of 2013
Date of decision : 16.02.2016**

J.C. Nagpal

...Petitioner

versus

Uttar Haryana Bijli Vitran Nigam Ltd. and others

..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ram Niwas Sharma, Advocate
for the petitioner.

Mr. Pardeep Singh Poonia, Advocate
for the respondents.

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

RITU BAHRI , J.

Petitioner was appointed as Work Charge Store mate on 17.11.1969 with the respondents and his services were regularized w.e.f 01.04.1979. Thereafter, petitioner was retired on 31.07.2008 after attaining the age of superannuation. Respondents did not release the pensionary benefits of the petitioner and thus, petitioner made a request to the respondents to release his reitral benefits but instead of releasing benefit, respondent No. 4 vide order dated 12.06.2012 asked the petitioner to deposit Rs.1,25,514/- on account of miscellaneous

recovery pending against him (P-1). Further petitioner was also not granted additional increment on completion of 8/18 years of service, in view of the instructions dated 07.08.1992 (P-2) and Finance Department letter dated 15.03.2002 (P-4).

On notice, a written statement has been filed by the respondents admitting the date of appointment and date of retirement of the petitioners but stated that petitioner committed several acts of omission and commission during the discharge of his official duties and remained willful absent from duty and remained under suspension due to his negligence on duty. The photocopy of the show cause notice, charge sheet, reply and office order imposing penalty upon the petitioner are attached as Annexure R-4/1 to R-4/5.

It has further been stated that earlier provisional pension was given to the petitioner and now full pension with retiral benefits are released to him vide PPO No. 6536 dated 28.07.2014 and 11012 dated 28.07.2014 (R-4/6 to R-4/7).

Further petitioner was served with a charge sheet dated 04.03.2003 to which he filed reply and the competent authority found him guilty and decided to recover 40% of total loss to Nigam of Rs.4.16 lacs i.e Rs.1,66,400/- along with annual increment without future effect was stopped. Thereafter, a show cause notice dated 02.04.2007 was

served to him (R-4/9) and petitioner was given personal hearing vide office letter dated 24.07.2007 but the competent authority did not satisfy with the reply and held him responsible for the financial loss of Rs.1,66,400/-, vide office order dated 31.07.2007. Petitioner retired on 31.07.2008, so only recovery of Rs.40886/- was effected in period of 12 months after office order dated 31.07.2007 and thus vide impugned order dated 12.06.2012, petitioner was directed to deposit Rs.1,25,514/-.

Further the Competent authority considered the case of the petitioner for grant of additional increment and decided to consider his case after deposit of Rs.1,25,514/- by the petitioner, vide order dated 24.06.2013 (R-4/12).

This Court vide order dated 16.07.2015 petitioner sought time to verify that whether he filed any appeal against order dated 31.07.2007 whereby petitioner was directed to deposit the balance amount of Rs.1,25,514/-.

Learned counsel for the petitioner submits that no appeal has been filed against the above said order and thus, the above said order has attained finality.

Learned counsel for the petitioner has now restricted his prayer to the extent of grant of interest on the delayed payment

released by the respondents, during the pendency of the petition, vide PPO No. 6536 dated 28.07.2014 and 11012 dated 28.07.2014 (R-4/6 to R-4/7) and further respondents be directed to re-fix the pay of the petitioner by allowing him increments since 1994.

Heard learned counsel for the parties

The petitioner was issued charge sheet dated 04.03.2003 and he was held responsible for the financial loss of Rs.1,66,400/-, vide office order dated 31.07.2007 and recovery of Rs.40886/- was effected from him before the date of his retirement and thus, thereafter, the respondents should have released his retiral benefits after three months from the date of his retirement, after adjusting the balance amount of Rs.1,25,514/-, as this fact was already in the knowledge of the respondents. But the respondents directed the petitioner to deposit an amount of Rs.1,25,514/-, vide office order dated 12.06.2012, after a lapse of about 05 years.

In view of the above factual position, the writ petition is partly allowed and the petitioner is held entitled to get interest on the delayed payment after 03 months of his retirement till the date of actual payment, in view of instructions dated 20.02.2002 and 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. This exercise shall be done within a period of three months from the date of receipt of certified copy of this order.

Further the claim of the petitioner for grant of increments since 1994, in view of instructions dated 15.03.2002, shall be considered by the respondents by passing a fresh order, within a period of three months from the date of receipt of certified copy of this order.

(RITU BAHRI)
JUDGE

16.02.2016

G Arora