IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.19584 of 2010
Date of decision: 22.3.2016

Kanwaljit Singh … Petitioner

Versus

Registrar Cooperative Societies, Punjab & ors. … Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Gagandeep Singh, Advocate, for
Mr. Manoj Kumar, Advocate,
for the petitioner.

Mr. Harit Sharma, Advocate,
for respondent No.2.

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

RAJIV NARAIN RAINA, J.(Oral)

1. Indisputably the petitioner had put in above 12 years of service with the Punjab State Federation of Cooperative House Building Societies Limited before he retired. The petitioner is entitled to gratuity as per the formula in Rule 5.2 of the Punjab civil Service Rules, Volume II, and Policy Circular letter dated July 16, 1998 issued by the Government of Punjab in the Department of Finance (Finance Personnel-III Branch) on the subject of implementation of recommendations of the 4th Punjab Pay Commission regarding pension and other retiral benefits where the employee has served above 12 years before retirement he is entitled to gratuity as follows:

> "Half of the emoluments for each completed six monthly period of qualifying service subject to a maximum of 33 times the emoluments and a

ceiling of Rs.3.50 lacs."

2. Para 5.3 of the letter mandates that for the purpose of calculating death-cum-retirement-gratuity the dearness allowance admissible to a Government employee on the date of his retirement shall also be treated as emoluments along with emoluments defined in paragraph 2.1 of the same circular letter. The only dispute in this case is as to the interpretation of the formula as quoted above. Both parties read it in their own way even when it is no more than arithmetic. It is common ground that the emoluments of the petitioner on the date of retirement were Rs.11660/- and half of which amount comes to Rs.5830/-. The amount so worked out has to be multiplied 33 times. If the emoluments of half of the amount is Rs.5380, then for each year the amount will be doubled to Rs.11660/-. When this figure is multiplied by 33, the amount of gratuity comes to Rs.3,84,780/-. But since a ceiling of Rs.3.50 lacs has been placed in Rule 5.2, the entitlement will be restricted to Rs.3.5 lacs.

3. On the other hand, the respondents calculate the amount in a convoluted manner which does not commend acceptance. They interpret the formula to mean that the sum of Rs.11660/- is to be multiplied by 66 and the result divided by 4. When calculated in this manner, the amount comes to Rs.1,92,390/- only and this amount has been paid and therefore, then claim stands satisfied.

4. On a comparison of both the interpretations of the same formula, the interpretation placed by learned counsel for the petitioner is the correct position. This formula is rudimentary and simple to understand and admits no other interpretation. Therefore, the formula as

worked out by the method adopted by the respondents is not a correct one. The impugned order passed by the Registrar, Cooperative Societies Punjab, Chandigarh on July 16, 2010 is based on erroneous reasoning and is therefore liable to be set aside.

5. Consequently, the writ is allowed. The impugned order is quashed. A mandamus is issued to the respondents to pay the balance amount calculated in the manner as above. Since the gratuity has been withheld for a sufficiently long time on a matter presenting no difficulty in interpretation, the petitioner would be entitled to interest at the statutory rate fixed under the Payment of Gratuity Act, 1972 on Rs 3.5 Lacs.

6. However, in case respondent HOUSEFED has fixed a rate of interest on delayed payment of gratuity and dearness allowance to its employees then such rate would prevail and govern the subject matter, failing which as in para. 5 above.

7. However, it has been brought to the notice of this Court that the petition was dismissed in default of appearance of counsel on April 22, 2013 and was restored on September 18, 2014. Accordingly, for this period, the petitioner would not be entitled to any interest on equitable grounds since the petitioner delayed the proceedings for the aforesaid period by his own act and conduct for which period the respondent is not liable to pay interest. The aforesaid period stand excluded from the calculation of interest. The principal amount of gratuity together with element of interest calculated in the manner indicated above are directed to be paid to the petitioner within one month from the date of receipt of a

certified copy of this order. Order dasti.

(RAJIV NARAIN RAINA)
JUDGE

22.3.2016
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