IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 10526 of 2014
Date of decision : 02.03.2016

Ved Prakash ....Petitioner

versus

Haryana Diary Development Coop Fed & anr. ..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Jasbir Mor, Advocate
for the petitioner.

Mr. Ajay Chauhan, Advocate
for the respondents.

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RITU BAHRI , J.

Petitioner 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 issuance of direction to the respondents to grant interest @ 18% per annum on the delayed payment of Leave Encashment amounting to Rs.2,46,242/- and gratuity amount of Rs.4,31,948/- for the period from 01.01.2013 to 18.02.2014.

Petitioner was appointed as Dairyman by respondent No. 1 and was posted at Milk Plant, Jind under the Jind Coop Milk Producers Union Ltd in the year 1981 and thereafter was appointed as Dairy Extension Worker by Gurgaon and Rohtak Coop Milk Producers Union

Ltd, vide order dated 04.11.1996. Subsequently, petitioner joined his duties on 15.11.1996 at Milk Plant Ballabgarh. Petitioner requested for his transfer on 01.04.1999 and was transferred to Milk Plant, Rohtak vide order dated 07.08.1999 and was posted at Madina Headquarter. Petitioner was finally absorbed as Dairy Extension Worker in the Rohtak Coop Milk Producers Union Ltd Rohtak vide order dated 09.02.2006. Subsequently, petitioner was promoted to the post of Executive Assistant (Procurement) vide order dated 03.02.2007 and continued to work in the Finished Store of Milk Plant Rohtak. Subsequently, petitioner retired on 31.12.2012. Since the retiral benefits of the petitioner were not released, petitioner filed a detailed representation dated 03.03.2013. Thereafter, the audit has shown a shortage of Rs.7,95,704/- in the stocks and a committee was constituted to inquire into the matter and found that there was no shortage in the stocks, vide report dated 31.05.2013. Petitioner was served with a charge sheet vide office memo dated 04.06.2013 for the above shortage of finished product stocks to which the petitioner submitted its reply on 19.06.2013. The Manager after considering the matter found that there was no shortage of stocks and a proposal was submitted to the authority that the charge sheet dated 04.06.2013 be dropped, vide order dated 01.07.2013 (P-6). Petitioner again gave a representation on 12.12.2013 for releasing the retiral benefits. Finally respondent No. 2

ordered for the release of amount of gratuity, leave encashment and also wrote to the LIC for releasing gratuity of the petitioner. The payment of the said benefits were made to the petitioner on 18.02.2014.

Now the petitioner is seeking payment of interest on the delayed payment of Leave Encashment amounting to Rs.2,46,242/- and gratuity amount of Rs.4,31,948/- for the period from 01.01.2013 to 18.02.2014.

On notice, a written statement was filed by respondent Nos. 1 and 2 admitting the fact that the petitioner was appointed in the year 1981 and retired on 31.12.2012. However, petitioner was issued a letter seeking his explanation on 26.07.2012 (R-2) but the petitioner chose not to reply. After his retirement, when the case of the petitioner was put up for release of retiral benefits for pre-audit, the Statutory Auditors returned the same for settlement of audit objection. Petitioner had failed to respond to the repeated requests for settlement of audit objections, interms of the service rules, Form M for rejection of claim of gratuity was issued to him vide letters dated 22.04.2013 and 7.05.2013 (R-3 and R-4) asking the petitioner for clarification on the audit objection raised by the Senior Auditor, Co-op Societies. Subsequently, he was issued a charge sheet dated 04.06.2013 (R-5).

Once, the Manager after considering the matter found that there was no shortage of stocks and a proposal was submitted to the authority that the charge sheet dated 04.06.2013 be dropped, vide order dated 01.07.2013, thereafter, after a period of one month i.e 01.08.2013, the retiral benefits be released to the petitioner, which was released on 18.02.2014.

For the reasons explained above, the petition is allowed and the respondents are directed to give 9% interest on delayed payment given to the petitioner mentioned above w.e.f 01.08.2013 to 18.02.2014, in view of judgment of Hon'ble the Supreme Court 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.

(RITU BAHRI)
JUDGE

02.03.2016
G Arora