

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

CWP No. 1054 of 2014 (O&M)
Date of Decision: 14.09.2016

SUKHDEV SINGH (Since deceased through LRs) ... Petitioner
VS.

STATE OF PUNJAB AND ORS ..Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

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

Mr. R.S. Pathania, DAG, Punjab.

Mr. R.L. Sharma, Advocate,
for the respondents No. 2 to 4.

KULDIP SINGH, J. (Oral)

CM No. 11393 of 2015

Prayer in this application is for bringing on record the legal heirs of the deceased petitioner.

Heard. Application is allowed and the legal heirs of the deceased petitioner are brought on record. Amended memo of parties is also taken on record.

CWP No. 1054 of 2014

The brief facts of the case are that the petitioner-Sukhdev Singh, (Since deceased and now represented by his legal heirs) retired as Junior Engineer from Punjab State Power Corporation on 31.03.2007. He claims that he was entitled to basic pension but only 75% of the pension was approved by

CWP No. 1054 of 2014 (O&M)

the respondents under Rule 2.2 (b) of the Punjab Civil Services Rules, Volume-II without issuing any charge-sheet or holding of any inquiry or disciplinary proceedings against him at the time of his retirement. Therefore, he is entitled to full pension alongwith all consequential benefits.

The stand of the respondent is that the when the petitioner was in service, he was served with a charge-sheet on 17.06.2004 (*Annexure R-1*) but he did not submit reply to the said charge sheet. Therefore, punishment order dated 07.02.2006 was passed vide which five annual grade increments were stopped with future effect. The petitioner had challenged the said order of imposition of penalty before the Civil Court, Ludhiana and vide judgement dated 22.10.2009 (*Annexure R-2*), the Civil Judge, Junior Division, Ludhiana had set aside the said order of imposition of penalty on the ground that the inquiry was not held before passing of the order. The appeal filed by the department before the first appellate court was dismissed on 08.09.2010 and no further appeal was filed.

I have heard learned counsel for both the parties.

Learned counsel for the petitioner has informed the Court that pending the present petition, all the retiral benefits have been released to the petitioner but these have been released with delay, therefore, he presses only upon the payment of interest on the delayed payment. The learned counsel for the petitioner has further informed this Court that General Provident Fund was released on 31.10.2007, leave encashment was released on 23.05.2014, gratuity was released on 17.11.2014, arrears of pension was released on 18.11.2014 and arrears of pay were released on 12.12.2014.

CWP No. 1054 of 2014 (O&M)

I am of the view that at the time of retirement of the petitioner, no inquiry or charge-sheet was pending against him. The order of imposing the penalty was challenged before the Civil Court, Ludhiana and the same was set aside on 22.10.2009 i.e. after the retirement of the petitioner. Admittedly, no stay was granted by the appellate Court and the appeal of the department was also dismissed on 08.09.2010 and no further appeal was filed.

Now, the question would arise whether there was reasonable ground for withholding the pension, gratuity, and other consequential arrears of pension and pay ? Since, the dispute regarding order imposing stoppage of five increments with future effect was pending, therefore, there could be justification for not releasing the entire pension and as such release of 75% pension till the decision of the Civil Court is justified to a great extent. However, once the matter has been decided by the Civil Court and in the appeal there is no stay, there is absolutely no reason to withhold the remaining part of the pension, leave encashment, gratuity and consequentially there is no reason to withhold arrears of pension and pay after the matter has been decided by the Civil Court, Ludhiana. Therefore, the petitioner is entitled to interest on the delayed payment of remaining part of the pension, leave encashment, gratuity and arrears of pay & pension.

In view of the above, the respondents are directed to pay interest @ 9 % per annum on the delayed payment of remaining part of the pension w.e.f. 22.10.2009 and to pay interest @ 9% per annum interest on the delayed payment of leave encashment, gratuity and arrears of pay starting three month from the date of retirement of the petitioner till the payment is made.

CWP No. 1054 of 2014 (O&M)

The respondents are directed to release the interest on the delayed payment within three months from the date of receipt of the certified copy of this order.

The writ petition is accordingly allowed.

September 14, 2016
Suresh Kumar

[KULDIP SINGH]
JUDGE

	✓		
<i>Whether speaking / reasoned</i>	<i>Yes</i>	/	<i>No</i>
	✓		
<i>Whether Reportable</i>	<i>Yes</i>	/	<i>No</i>