

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

CWP No.11123 of 2014 (O&M)

Date of decision : July 08, 2016

S.B. Sharma

..... Petitioner

Versus

**The Haryana State Cooperative Supply and
Marketing Federation Limited (HAFED)**

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Ravi Verma, Advocate for the petitioner.

Mr. Sandeep Goyat, Advocate for the respondent.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

Petitioner, who retired as Deputy General Manager (Quality) from Haryana State Cooperative Supply and Marketing Federation Limited (in short 'Hafed'), Gurgaon, on 30.04.2012 after attaining the age of superannuation, has sought the release of gratuity as well as leave encashment.

The petitioner claims that till date, the said gratuity and leave encashment have not been released. However, during the pendency of the present petition, the leave encashment has been released and now the relief is confined only to the release of gratuity.

Petitioner further claims that no departmental proceedings is pending against him. Therefore, the gratuity cannot be withheld.

The respondent in its reply has stated that the present petitioner was involved in making excess payment of ₹13,94,873/- during the civil

work of Barley Malt Plant, Jatusana during 2010 being a committee member. Therefore, his other dues have been kept pending during the finalization of disciplinary case against him. Hence, he is not entitled to release of the said benefits.

I have heard learned counsel for the parties and have also carefully gone through the case file.

Undisputedly, the petitioner retired from service on 30.04.2012. Leave encashment was released to him on 13.02.2015, vide cheque No.061417, after the filing of the present petition. However, the said leave encashment was withheld without issuing any show cause notice or inquiry or any disciplinary proceedings against him. Therefore, it is held that the petitioner is entitled to interest on the said payment of leave encashment. The respondent shall pay interest @ 9% per annum on the delayed payment of leave encashment w.e.f. 30.04.2012 till 12.02.2015.

Coming to the release of gratuity, the reply shows that there were allegations of making of excess payment of ₹13,94,873/-. However, there is nothing on file to show that till date, any show cause notice, charge-sheet has been served upon him. Moreover nor any other disciplinary proceedings were initiated against the petitioner.

Therefore, without any disciplinary proceedings, the said amount of gratuity also cannot be withheld.

Learned counsel for the petitioner has file the copy of noting on the file obtained under the Right to Information Act, 2005, which shows that the matter has been supposed to be kept pending till the decision of the present petition. The amount of the gratuity has not been released till the decision of the present petition.

I am of the view that when the gratuity is due, the respondent does not require any order from this Court. Since, no disciplinary proceedings is pending against the petitioner, therefore, the amount of gratuity is also ordered to be released to the petitioner forthwith along with interest @ 9% per annum.

Before parting with the order, it is observed that leave encashment and gratuity were withheld without pendency of any departmental proceedings and these are otherwise required to be released forthwith, if no inquiry is pending or contemplated. As such, the respondent is directed to enquire into the matter and fix the responsibility of the official/officer for the delayed payment and take necessary action against him/them.

The present petition is, accordingly, allowed.

(KULDIP SINGH)
JUDGE

July 08, 2016
sarita