

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

Sr. No.271

CWP No.13766 of 2014

Date of decision: 14.01.2016

Rajinder Parsad Munjal

....Petitioner

versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Narender Pal Bhardwaj, Advocate
for the petitioner.

Mr. Harish Rathee, Senior DAG, Haryana.

* * *

DEEPAK SIBAL, J. (Oral)

In spite of several opportunities granted and imposition of costs on 17.08.2015, neither any written statement has been filed by the respondents nor the costs has been deposited. In view of the same, I propose to decide the writ petition on the basis of the averments made by the petitioner.

A few facts may be noticed.

The petitioner who was serving the respondents as a District Development and Panchayat Officer superannuated on 31.01.2011. However, his gratuity and commutation benefits were not released on account of pendency of the disciplinary proceedings against him.

So far as the disciplinary proceedings against the petitioner are concerned, the Deputy Commissioner had written that there was no occasion to proceed against the petitioner departmentally but in spite of the same, an enquiry officer was appointed who, after enquiry, exonerated the petitioner

qua all levelled charges. Thereafter, vide order dated 30.11.2013, the entire disciplinary proceedings against the petitioner were ordered to be filed and resultantly, in April 2014, the gratuity and other commutation benefits of the petitioner were released. Through the present petition, the petitioner claims interest on the delayed release of his gratuity and other commutation benefits.

Counsel for the parties have been heard.

It is not disputed that the gratuity and other commutation benefits of the petitioner were withheld for a period of over three years on account of pendency of the disciplinary proceedings which had been initiated in spite of the letter by the concerned Deputy Commissioner that there was no occasion to departmentally proceed against the petitioner. Nonetheless in the enquiry, the petitioner was honourably exonerated and as a result thereof order dated 30.10.2013 was passed dropping all charges against him.

In view of the aforesaid facts, there was no justification to withhold the gratuity and other commutation benefits by the petitioner. This Court in **Puran Singh versus State of Punjab, 1995(2) RSJ 390** has held that gratuity is the property of an employee and is payable on the date of retirement. It was further held that if the same has been kept in abeyance on account of disciplinary proceedings, as and when the same is paid to the employee, he becomes entitled to be paid interest thereupon. Para No.10 of the judgment in **Puran Singh's case (supra)**, which is relevant is reproduced as under:-

“ In so far as payment of interest on gratuity is concerned, in my opinion, the petitioner earned a right to get the gratuity on the date of his retirement. It became his

property with effect from 01.04.1987. This right of the petitioner was put in abeyance on account of the disciplinary enquiry initiated by the Government. During this period the Government indirectly enjoyed the property of the petitioner. Therefore, there is every justification in the claim of the petitioner that he should be awarded interest on the amount of gratuity for the period it was not paid to him.”

In view of the facts of the case in hand and the position of law as laid down by this Court in **Puran Singh's case (supra)**, it is held that the gratuity and other commutation benefits of the petitioner were withheld by the respondents for a period of over three years without any justification, especially in the facts of the case in hand, when the payment of the aforesaid dues was kept in abeyance on account of the disciplinary proceedings which ultimately were dropped by the Government.

Resultantly, the present petition is allowed and the petitioner is held entitled to payment of 10% simple interest with effect from the date three months after his retirement till the date, his gratuity and other commutation benefits were actually released to the petitioner. The needful be done within two months from the date of receipt of a certified copy of this order.

No costs.

(DEEPAK SIBAL)
JUDGE

January 14, 2016
Jyoti 1