203 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.7660 of 2011 (O&M)
Date of decision : December 15, 2016

Dharamwati .... Petitioner

Versus

State of Haryana and others .... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Rajesh Lamba, Advocate for the petitioner.

Mr. Ravi Partap Singh, AAG, Haryana.

Mr. R.D. Bawa, Advocate for respondent Nos.2 to 4.

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 ?

<u>KULDIP SINGH J. (ORAL)</u>

Shri Rattan Singh, the late husband of the petitioner was working as Foreman with Haryana Urban Development Authority (for short 'HUDA'). He retired from service on 30.06.2006, on attaining the age of superannuation.

It is stated that after his retirement, his retiral benefits were not released to him. He expired on 21.12.2006. Thereafter, the petitioner issued a legal notice dated 27.12.2008 to the Chief Administrator, HUDA. However, it is stated that despite repeated visits, the retiral benefits i.e. leave encashment, GPF, GIS, gratuity and EPF pension were not released in time to the petitioner. The petitioner filed CWP No.13924 of 2010, which was disposed of vide order dated 06.08.2010.

It is claimed that the deceased husband of the petitioner was entitled to the pension under the Haryana Urban Development Authority Employees' Pension Regulations, 2001, stating that as per the sub clause 4 of clause 1 of the said regulation, if the employees, who do not opt for these regulations, shall be governed by the provisions contained in Haryana Urban Development Authority Employees Provident Fund Rules, 2001, is illegal.

However, at the time of arguments, learned counsel for the petitioner states that he withdraws the claim regarding pension under the said rules of 2001 and does not press as he wishes to challenge the vires of those rules.

Now, this Court has to decide the relief only regarding the payment of interest on the delayed payment of abovenoted retiral benefits.

In the written statement, it is not denied that leave encashment amounting to ₹1,29,270/- was released on 19.12.2006. On account of revision of pay, the arrears of leave encashment amounting to ₹63,432/- was released on 16.11.2010. The GPF amounting to ₹3,38,889/- was also released on 16.11.2010. The amount of gratuity was released on 19.12.2006 and the arrears of the gratuity on account of revision of pay was released on 16.11.2010. GIS amounting to ₹3,282/- was released on 16.03.2011. The EPF pension was also ordered to be released, vide order dated 27.01.2010, which was to be done by the EPF Commissioner.

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

In this case, the pension was to be released by the EPF Commissioner, who is not party in the present case. Therefore, for delayed payment of the pension, this Court is unable to pass any order. The husband of the petitioner Rattan Singh retired from service on 30.06.2006. His retiral benefits were required to be released within three months. Therefore, for late payment of leave encashment, GPF, GIS and gratuity, the respondents are liable to pay interest @ 9% per annum starting three months from the date of retirement. Admittedly, the pay revision was done, vide Notification dated 30.12.2008 w.e.f. 01.01.2006. The arrears were supposed to be released within three months, starting form 01.04.2009. The respondents shall be liable to pay interest @ 9% per annum on the delayed payment of arrears of leave encashment and gratuity till the date of actual payment.

As such, the present petition is partly allowed.

(KULDIP SINGH)
JUDGE

December 15, 2016
sarita

Whether speaking / reasoned Yes
Whether Reportable: No