

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

CWP No.22151 of 2014

Date of decision: 25.01.2016

S.C. Sharma

....Petitioner

Versus

Haryana Warehousing Corporation

....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Narender Yadav, Advocate
for the petitioner.

Mr. Jitendra Sharma, Advocate
for the respondent.

RITU BAHRI J. (Oral)

The petitioner is seeking writ of mandamus directing the respondent to grant him interest on the retiral benefits i.e. gratuity and leave encashment from the date when it became due i.e. 31.12.2006 till 20.12.2011.

The petitioner worked with the respondent on various posts and after attaining the age of superannuation, he was retired on 31.12.2006 as a Manager. Provisional pension was released to the petitioner vide order dated 07.03.2007, however, the payment of gratuity and leave encashment amounting to Rs.5,31,502/- were not released to the petitioner. There were five enquiries pending against the petitioner, out of which few were dropped and few were withdrawn by the respondent-department. The 1st charge-sheet was issued to the petitioner vide HWC/Admn./EA-

6/99/32414-15 dated 08.07.1999, which was duly replied and personal hearing was granted to the petitioners, after that the charge-sheet was dropped vide order HWC/Admn. EA-6/2009/33743 dated 09.07.2009. The 2nd charge-sheet was issued to the petitioner vide HWC/Admn./EA-6/99/32414-15 dated 08.07.1999 which was duly replied and personal hearing was granted to the petitioner, after that the charge-sheet was dropped vide order HWC/Admn./EA-5/2008/17248-262 dated 02.04.2009. The 3rd charge-sheet was issued to the petitioner vide HWC/Admn./EA-9/99/40248-49 dated 23.08.1999, which was again duly replied and petitioner appeared in personal hearing, after which the charge-sheet was dropped vide order HWC/Admn./EA-9/2009/67412 dated 09.12.2009. The petitioner was again issued a 4th charge-sheet vide HWC/Admn./EA-3/04/24935-36 dated 06.05.2004 which was again duly replied and appeared in personal hearing after which the charge-sheet was ordered in favour of the petitioner vide HWC/Admn./EA-2/2011/33134 dated 12.08.2011. The 5th charge-sheet was issued to the petitioner vide HWC/Admn./EA-9/08/33746-751 dated 14.08.2008, which was again duly replied and appeared in personal hearing after that this charge-sheet was also ordered in favour of the petitioner vide HWC/Admn./EA-9/2009/59011 dated 29.10.2009.

The petitioner was exonerated in all the charge-sheets

issued to him. The respondent-department had released the payment of leave encashment of Rs.2,06,860/- and gratuity of Rs.2,93,876/- to the petitioner on 18.11.2011, without any interest on delayed payment.

After finalization of the disciplinary proceedings, the promotion case of the petitioner was decided vide order dated 10.05.2013 (Annexure P-4), however only notional promotion was given to the petitioner without arrears of pay. The petitioner made representations dated 04.11.2013 (Annexure P-6, collectively).

Upon notice in the present writ petition, written statement dated 09.03.2015, has been filed by the respondent-Haryana State Warehousing Corporation admitting that at the time of superannuation, the retirement dues had not been released to the petitioner on account of outstanding pending amount and necessary No Objection Certificates were sought from all the officers as per letter dated 22.12.2005 (Annexure R-1). Further as per Annexure R-2, after examining the case on the file of Administrative Branch, nothing was recoverable from the petitioner. It is further stated that after the charge-sheets were decided, dues of the petitioner were released vide letter dated 31.03.2010 and orders dated 18.11.2011 (Annexures R-2 to R-5). It is further admitted that after the decision on the charge-sheet, the petitioner has been given retrospective promotion vide order dated 22.05.2013, since, the dues have been released on

18.11.2011. However, no payment on interest has been granted to the petitioner.

Reference can be made to a judgment, "***Nek Ram Sharma vs State of Punjab and others***", 2015(3) SCT 622, where the gratuity and leave encashment were released to the petitioner after three years of his retirement and these payments were delayed on account of disciplinary proceedings pending against him which were finally dropped. In the said judgment it was held that the suspension period of the petitioner shall be treated as duty period by the authority and thus, the petitioner was held entitled to interest on delayed payments.

In the facts of the present case as well, the petitioner had retired on 31.12.2006 and disciplinary proceedings initiated against him were also dropped on 20.12.2011.

Hence, keeping in view the above facts and circumstances and by applying the ratio of ***Nek Sharma's case (supra)***, the present petition, at this stage, is allowed. The respondents are directed to pay interest to the petitioner on delayed payments of retiral benefits @ 9% per annum from 01.04.2007 till its actual payment. The interest on retiral benefits shall be paid to the petitioner within a period of three months from the date of receipt of certified copy of this order.

(RITU BAHRI)
JUDGE

25.01.2016

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