IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CWP-865 of 2011 O&M)
Date of decision: 09.08.2016

D.K. Sahi …..Petitioner

versus

The Punjab State Coop. Supply & MarketingLtd. & another
……Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Ms. Jagdeep Bains, Advocate for the petitioner.
Mr. Parminder Singh, Advocate for the respondents.

1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Kuldip Singh, J. *(Oral)*

Petitioner retired as District Manager Markfed on 31.05.2004. Vide order dated 31.5.2004 (Annexure-P-2), while retiring him from service, it was ordered that the retiral dues will be released after finalisation of surcharge case, special audit reports, explanation pending against him and on receipt of clear cut 'No Dues Certificate' from the concerned quarter. The order of retirement is reproduced below:-

> "*On attaining the age of superannuation of 58 years, Shri D.K. Sahi (Code No. 557), presently working as Manager (Procurement) at H.O. Chandigarh shall retire from the service of The Punjab State Cooperative Supply and Marketing Federation Limited, Chandigarh w.e.f. 31.5.2004 (afternoon) under Rule 2.21 (i) of Markfed be released after finalisation of surcharge case, special audit reports, explanation pending against him and on receipt of clear cut No*

Dues Certificate from the concerned quarter."

Consequently, the retrial benefits were not released. It comes out that some arbitration cases were pending, which were decided vide awards (Annexure R-14 to 18) in the year 2013, in which the petitioner was not found liable to pay anything. The affidavit of Senior Manager of the Markfed also shows that some Audit queries were also pending and that no action was taken on the same and the same were either dropped or filed.

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

It comes out that now the gratuity has been released in May 2011 and leave encashment has been released on 6.8.2013.

Now, the short question arising for consideration is as to whether the petitioner is entitled to interest on delayed payment or not?

I am of the view that the retiral benefits could not be withheld without passing any order under the service rules, applicable to the petitioner. At the time of retirement, no inquiry was pending against the petitioner nor any show cause notice was issued to him. Therefore, without initiating the proceedings under the rules, the department could not withhold the retiral benefits. If some audit files are pending, these should have been decided within few months and not in years. The department had three months to release the payments. However, they took their own time and even waited for the decision of the arbitration cases. However, in case of arbitration, the award is otherwise executable against the property of the person held liable to pay the amount under the award. Therefore, the withholding of the retiral benefits without any show cause notice or inquiry was patently illegal and therefore, the petitioner is entitled to interest on the delayed payment.

In such circumstances, the respondents are ordered to pay interest @ 9% per annum starting three months from the date of retirement till the actual payment is made.

The petition is accordingly allowed.

09.08.2016 **(Kuldip Singh)**
gk **Judge**

Whether speaking/ reasoned: Yes/ No
Whether Reportable: Yes/No