

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

**CWP No.2407 of 2014 (O&M)
Date of decision : August 10, 2016**

Rai Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Dilbagh Singh, Advocate for the petitioner.
Mr. Rajat Bansal, AAG, Punjab.
Mr. S.C. Pathela, Advocate for respondent No.3.

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 ?

KULDIP SINGH J. (ORAL)

Petitioner was working as Section Officer/Junior Engineer with respondent No.3-Department. During his service, FIR No.47, dated 23.09.2004 was registered against him under Sections 420, 465, 468, 471, 511, 120-B IPC and under Sections 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, at Police Station Vigilance Bureau, Ludhiana, for the events pertaining to the period 1989 to 2001.

The challan was presented in the Court, in which charges have not been framed so far. The petitioner retired from service on 31.08.2012. The petitioner filed CWP No.23595 of 2013, in which he was directed to serve a demand notice upon the respondents and thereafter, approach this Court in the eventuality of the same being not answered within a reasonable

time. The legal notice was accordingly served but on being answered against him adversely, thereafter, the petitioner approached this Court by filing CWP No.2084 of 2014, in which it was stated that due to pendency of the criminal case, the payments have not been released to the petitioner. Therefore, the said petition was withdrawn on 05.02.2014 with liberty to file fresh one with better particulars.

Learned counsel for the petitioner contends that only the arrears of leave encashment and gratuity are left to be released by the respondents.

A perusal of the order dated 29.01.2007 (Annexure P-7) shows that the petitioner was served charge-sheet on 10.06.2003, in which punishment order of warning 'to be careful in future' was passed. The copy of the FIR shows that it was registered on 23.09.2004.

On behalf of the respondent-Department, the stand has been taken that in the criminal case, the charges were not framed against the petitioner. If it is so, it amounts to discharge. Even if, the charges have been framed and the trial is going on, no recovery could be made, unless either the departmental proceedings are initiated and concluded or the petitioner is convicted and consequently on the basis of conviction, disciplinary proceedings are initiated against him and then the punishment order is passed. But it is not so in the present case. Therefore, the arrears of the leave encashment and gratuity have been wrongly withheld by the respondents.

It being so, the present petition is allowed and the respondents are directed to release the arrears of leave encashment and gratuity to the petitioner within three months from the date of receipt of certified copy of this order along with interest @ 9% per annum, starting from three months

from the date of retirement of the petitioner till its payment.

August 10, 2016
sarita

(KULDIP SINGH)
JUDGE

Whether speaking / reasoned	Yes
Whether Reportable:	No