

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

**CWP No.25652 of 2014 (O&M)
Date of decision : September 26, 2016**

Vijay Kumar Hari

..... Petitioner

Versus

**The Director, Department of Rural Development
and Panchayats and others**

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Vijay Kumar Chaudhary, Advocate for the petitioner.

Mr. Rajat Bansal, AAG, Punjab.

Mr. Vijay Rana, 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 ?

KULDIP SINGH J. (ORAL)

Petitioner seeks writ of mandamus quashing order dated 10.07.2014 (Annexure P-5) passed by respondent No.4 and order dated 10.10.2014 (Annexure P-9) passed by respondent No.3, whereby the prayer of the petitioner for grant of interest on the delayed payment of retiral benefits from the date of his retirement i.e. 31.12.2008, has been rejected. A writ of mandamus has also been sought directing the respondents to grant interest on the delayed payments of retiral benefits.

Petitioner was working as Junior Assistant with the respondents in the Department of Rural Development and Panchayata, Punjab. As a

result of the departmental inquiry, he was held guilty and reverted to the post of Senior Clerk by the disciplinary authority. However, the appellate authority i.e. the Commissioner on its own enhanced the punishment of reverting to the junior post to that of removal from service, vide order dated 16.03.1997. The petitioner challenged the said order by way of filing CWP No.8591 of 1997, which was decided by this Court on 12.06.1997 and the case was remanded directing the authorities to pass a fresh order after giving opportunity of hearing to the petitioner.

The appellate authority i.e. the Commissioner again maintained the said order of removal from service, vide order dated 16.09.1998.

The petitioner being aggrieved by the said order again approached this Court by way of filing CWP No.1219 of 1999, in which the Division Bench of this Court stayed the operation of the order dated 16.09.1998 and admitted the case. The said writ petition was finally disposed of on 13.09.2013, vide which the order dated 16.09.1998 of the appellate authority was quashed and order of the disciplinary authority, reverting the petitioner from Junior Assistant to Senior Clerk, was upheld. In the meanwhile, the petitioner after attaining the age of superannuation retired from service as Senior Clerk. Thereafter, the retiral benefits were released to the petitioner, which are as under:

<i>Sr. No.</i>	<i>Description of Payment</i>	<i>Amount (in Rs.)</i>	<i>Actual date of Payment</i>
1	Death cum Retirement Gratuity (DRCG)	3,44,348/-	13.1.2014
2	Leave Encashment	2,22,160/-	13.1.2014
3	Arrears of revised pay scales	48,766/-	13.1.2014
4	Arrears of pension for the period of 1.1.2009 to 31.8.2014	8,48,530	12.9.2014

Petitioner claims interest on the delayed payment, which was declined.

The stand of the respondent is that the petitioner continued in service on account of stay granted by this Court and when the writ was decided on 13.09.2013, the retiral benefits were, immediately, released to the petitioner. Therefore, the Department is not liable to pay the interest on the delayed payment. Some reasoning is mentioned in the impugned orders.

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

It comes out that the order dated 16.09.1998 of removal from service of the petitioner was stayed by this Court in CWP No.1219 of 1998. On account of said stay of the said order, the petitioner continued in service and retired on 31.12.2008, on attaining the age of superannuation. Now, if the order of the appellate authority of removal from service ultimately upheld, the result would have been that the petitioner would deemed to be removed from the service from the date of passing of the order i.e. 16.09.1998.

However, if the order is quashed, the petitioner deemed to have been retired from service on attaining the age of superannuation in the rank of Senior Clerk. The matter was ultimately decided on 13.09.2013. Till date, the Department was justified in withholding the retiral benefits of the petitioner, as the matter was pending adjudication before this Court.

Now, the matter has been decided finally. The order becomes effective and the Department is liable to pay the retiral benefits of the petitioner within reasonable time i.e. within three months of the passing of

the order. That would mean that the retiral benefits should have been released by 13.12.2013. However, the benefits should have been released after some delay as the dates mentioned above.

It being so, the impugned order dated 10.07.2014 (Annexure P-5) and order dated 10.10.2014 (Annexure P-9) are hereby set aside to the extent that the petitioner is entitled to interest @ 9% per annum from 13.12.2013 till date of actual payment.

Accordingly, the present petition is allowed to the abovenoted extent. The amount of interest shall be released by respondent Nos.2 to 4 to the petitioner within further period of two months from the date of receipt of copy of this order.

(KULDIP SINGH)
JUDGE

September 26, 2016

sarita

Whether speaking / reasoned Yes

Whether Reportable: No