220 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.26933 of 2014 (O&M)
Date of decision : July 23, 2016

Daulat Singh .... Petitioner

Versus

State of Punjab and others .... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. M.S. Bedi, Advocate for the petitioner.

Mr. Rajat Bansal, AAG, Punjab.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ? Yes
2. To be referred to the Reporter or not. Yes
3. Whether the judgment should be reported in the digest ? Yes

KULDIP SINGH J. (ORAL)

The petitioner while working as Industrial Promotion Officer in the office of District Industries Centre, Amritsar, was booked in a criminal case by the Central Bureaue of Investigation. He retired from service on 30.04.1996 (Annexure P-1). Ultimately, vide judgment dated 22.02.2012 passed by learned Special Judge, C.B.I., New Delhi, acquitted the present petitioner of the charges framed under Sections 120-B IPC read with Section 420, 468, 471 IPC and under Section 5(2) read with Section 5(1)(d) of the Prevention of Corruption Act, 1947. He moved before respondent No.3 on 19.06.2012 with the copy of the judgment for release of his gratuity. The matter was processed and ultimately on 27.11.2013, the sanction was granted for releasing the gratuity. In the present case, the petitioner claims interest on the delayed payment of gratuity from 01.05.1996 to 27.11.2013.

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

The State has taken the stand that under Rule 9.14(c) of the Punjab Civil Services Rules, Volume -II, no gratuity shall be paid to the Government employees, until the conclusion of the departmental enquiry or judicial proceedings pending against him at the time of his retirement and issue of final orders thereon. Hence, there was no delay on the part of the State.

Learned counsel for the petitioner has relied upon the authority of Hon'ble the Supreme Court delivered in case of ***"Y.K. Singla vs Punjab National Bank and others", 2013(4) RSJ, 495.***

In the said case, an employee of Punjab National Bank was involved in a criminal case. He superannuated during the pendency of the trial and after the trial he was acquitted. Hon'ble the Apex Court after considering the provisions of Regulation 46 of the Punjab National Bank (Employees) Pension Regulation, 1995 (in short 'the 1995 Regulation'), held that there was no fault on the part of the employee and consequently, he is entitled to the interest.

The Rule 9.14(c) of the Rule *ibid* is reproduced as under:

> *(c) No gratuity shall be paid to the Government employee until the conclusion of the department or judicial proceedings and issue of final order thereon:*
> *Provided that where departmental proceedings have been instituted under rule 10 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970, for imposing any of the penalties specified in clauses (i), (ii) and (iv) of rule 5 of the said rules, the payment of*

gratuity shall authorised to be paid to the Government employee."

Regulation 46 of the 1995 Regulation is also reproduced as under:

"*46. Provisional Pension (1) An employee who has retired on attaining the age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued, a provisional pension, equal to the maximum pension which would have been admissible to him, would be allowed subject to adjustment against final retirement benefits sanctioned to him, upon conclusion of the proceedings but no recovery shall be made where the pension finally sanctioned is less than the provisional pension or the pension is reduced or withheld etc. either permanently or for a specified period.*

(2) In such cases the gratuity shall not be paid to such an employee until the conclusion of the proceedings against him. The gratuity shall be paid to him on conclusion of the proceedings subject to the decision of the proceedings.

Regulation 46 of the 1995 Regulation reproduced as above gave an analogous power to the authorities to withheld the pension until the conclusion of departmental or judicial proceedings.

A perusal of the Rule 9.14 (c) *ibid* reproduced as above shows that Regulation 46(2) of the 1995 Regulation and Rule 9.14 (c) of the Rule *ibid* are same. Once, the Rule and Regulation are same, the authority of ***Y.K. Singla's case (supra)*** will apply with full form to the present case. It follows that the petitioner was not at fault for his being involved in a criminal case, which ultimately turned out to be false. Hence, he is entitled to the interest commencing three months from the date of his retirement till the payment of gratuity on 26.11.2013 @ 9% per annum.

Payment be made within two months from the date of receipt of copy of the order.

Accordingly, the present petition is allowed.

(KULDIP SINGH)
JUDGE

July 23, 2016
sarita