IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.4356 of 2013
Date of decision: 27.5.2016

Pala Singh … Petitioner

Versus

State of Punjab & Ors. ... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. JS Khiva, Advocate,
for the petitioner.

Mr. Vaibhav Sharma, D.A.G., Punjab.

Mr. BS Mittal, Advocate,
for respondents No.2 & 3.

Mr. Sanjay Tangri, Advocate,
for respondent No.5.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

1. The dispute in this case arises from non-release of retiral benefits including gratuity, GPF and monthly pension to the petitioner. The amounts have not been paid so far for the reason that the petitioner was called upon to deposit a sum of ₹ 2.35 lacs in the pension fund of the respondent-PSPCL representing employee's share of contributions lying in the Employees Provident Fund Organization, Bathinda in the account of respondent PSPCL but he failed to do so. The petitioner says he was unable to pay the sum and prays that the same may be adjusted towards the higher amounts lying in his account which have not been released to him on retirement and the balance paid to him, instead of him depositing first and balance amount adjusted thereafter. This appears to this Court to

be a fair arrangement which neither hurts nor prejudices the parties. The petitioner does not dispute liability to deposit the amount.

2. Mr. Tangri appearing for the respondent EPF Organization says that request has not been made by the PSPCL to help withdraw or transfer the money which has to be initiated in the shape of a joint request of employer and the petitioner in Form 10-C of the Pension Scheme maintained by the EPF Organization for its subscribers. The petitioner retired from service on August 31, 2011 and the dispute remains pending unresolved in an impasse.

3. This dispute is simple and can easily be resolved by passing the following directions:-

> 1. The petitioner would appear before the office of the PSPCL at Budhlada on June 1, 2016. The dealing hand/competent authority would sit with the petitioner and complete Form 10-C.
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> 2. Further, when Form 10-C signed by both the parties then it will be the duty of PSPCL to forward Form 10-C to the 4th respondent within one week. In the meantime, PSPCL will complete all the formalities and paper-work for which the petitioner would cooperate including furnishing the service particulars of the petitioner for the record of the EPF Organization including bank details/accounts etc. where the money has to be transferred. The Organization is directed after completion of papers as presented before it to transfer the money. On

receipt of money, PSPCL will release the retiral benefits in the meanwhile and without waiting for the steps involved in the directions above, the PSPCL will pass an order counting work-charged service of the petitioner with regular service for the purposes of pension and pensionary benefits.

3. On receipt of money from the EPF Organization, the petitioner will be released his pending retiral dues after adjusting the amount of ₹ 2.35 lacs employer's share into the pension share which will enable the petitioner to receive pension after adjusting/deducting the said amount. Accordingly, the balance amount will be paid immediately within two weeks.

4. Since the retiral benefits have been held up since 2011 and the dispute could have been resolved by the PSPCL by taking timely steps such as those directed in this order to make available the retiral benefits to the petitioner by deducting the amount of ₹ 2.35 lacs representing the employer's share and then could have handed over the balance amount but since that was not done the petitioner is held entitled to interest at the rate payable by nationalized banks fixed for long term fixed deposits.

5. At any rate, Mr. Mittal points out that PSPCL could not have taken recourse to this method of adjustment of money in view of the instructions dated March 16, 2007 (Annex. R-3/1), which prescribe that refunds of PSPCL/Board's share on account of EPF and interest thereon

for counting work-charged service towards pensionary benefits do not invite interest which is payable if the petitioner has withdrawn some amount from the EPF account. It may be noted that the petitioner has already received his share of EPF pension in 2008 amounting to ₹ 2,05234/- on March 27, 2008. Mr. Mittal says that the Corporation has to adhere to the instructions and has no option and since the directions for release by adjustment from retiral benefits are being issued today, no interest should be paid by his client. This rule may justify award of interest at rates not beyond those prescribed in Section 35 CPC which guarantees at least 6% rate of interest on delayed payments [but not at statutory rates of interest prescribed in EPF Act, since EPF organization is not at fault to delay the matter in absence of presentation of statutory Form 10-C].

6. In the considered view of the Court since dues were not released for far too long a time without justification they would earn interest at the rate of 6% on principles of ex debito justitiae, equity and good conscience payable by PSPCL to the petiotioner. The same be calculated on the entire principal outstanding amounts after deducting the amount of contribution [supra], from two months of date of retirement till actual payment.

7. With the above observations and directions, the petition stands disposed of as partially allowed.

(RAJIV NARAIN RAINA)
JUDGE

27.5.2016
monika/Vimal