IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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CWP No. 4020 of 2014
Date of decision : March 10, 2016

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Prem Singh

...........Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Limited and others

...........Respondents

* * * * *

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. Jagbir Malik, Advocate for the petitioner.

Mr. Pardeep Singh Poonia, Advocate for the respondents.

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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?*

RITU BAHRI, J

The petitioner is seeking directions to the respondents to release the pensionary benefits which have been withheld by the respondents on the ground that he has not passed the type test after his promotion to the post of LDC despite the fact that it was not a condition in the promotion order dated 19.3.1980 (Annexure P-1).

The petitioner was appointed on the post of Bill Distributor on contract basis on 13.6.1971. Thereafter he was regularized in the year 1972. He was promoted to the post of Lower Division Clerk on 19.3.1980 vide promotion order (Annexure P-1). Thereafter he was promoted to the post of Upper Division Clerk on 19.3.1993. He was further promoted to the post of Commercial Assistant on 28.8.2006 to the post of Circle Assistant on 31.8.2009 and to the post of Head Clerk on 13.9.2010. On 28.2.2012, the petitioner retired from service after attaining the age of superannuation from the post of Head Clerk. The petitioner received his full amount of leave encashment and GPF. On 1.3.2012, respondent no.5 returned the pension case along with Service Book of the petitioner to respondent no.4 putting some objections like the entry of passing of type test on promotion as LDC and that the same had not been verified up to date etc. (Annexure P-8).

Learned counsel for the petitioner has referred to a judgment passed by this Court in the case of ***Shankar Dass Versus UHBVN and others (CWP No. 177 of 2009)*** decided on **17.8.2010** to contend that a similar controversy has been resolved in this case, wherein *benefit of ACP on completion of 10 years of service as LDC had not been granted to the petitioner on the ground that he had not passed the type test. The petitioner in that case had been promoted to the post of LDC in the year 1991 and thereafter retired in the year 2008. He was granted regular increments all along. At no stage, any action was taken against the petitioner during the period he remained in service that he had not passed the type test. As per the policy decision dated 10.5.1989 (Annexure P-10) there was no* *condition for passing of type test for promotion to the post of LDC. The writ petition was allowed and a direction was given to the respondent to grant benefit of first ACP to the petitioner with effect from the date it was due to him on completion of 10 years of service as LDC.*

In the written statement, the respondents have placed on record the promotion order dated 19.3.1980 (Annexure R-4/1) when the petitioner was promoted to the post of LDC and there was a specific condition to qualify the typewriting test within a period of six months. Further the Director vide letter dated 20.6.2014 (Annexure R-4/2) has clarified that the condition of typing test is exempted for the LDCs (promoted from Class-IV) only who have retired or expired up to 31.5.2014. No recovery of any kind due to non-passing of the type test will be made from them. After receiving the above said letter, the retiral benefits were calculated and he has been given the payment of Rs. 9,29,397/- vide cheque no. 226938 dated 25.8.2014 (Annexure R-4/3).

The only question for consideration now is whether the petitioner is entitled to interest on the delayed payment of retiral benefits. A perusal of the judgment (Annexure P-9) shows that a policy decision had been taken way back on 10.5.1989 not to impose a condition of passing typewriting test for the promotion to the post of LDC. The respondents cannot give a justification that only vide letter dated 20.6.2014 the condition of type test was exempted for the LDCs (promoted from Class-IV) only who have retired or expired up to 31.5.2014. Though the payment has now been made on 25.8.2014, since the policy decision was taken way back in the year 1989, the petitioner is held entitled to payment of interest on delayed payment of retiral benefits. The petitioner had retired on 28.2.2012 (Annexure P-6) and he shall he held entitled to payment of interest on delayed payment of retiral benefits with effect from 1.6.2012 along with **9%** interest. (as per judgments in the cases of D.D Tewari(D) through LRs V/s Uttar Haryana Bijli Vitran Nigam Ltd. and others 2014 AIR (SC) 2861 and Megh Varan Sharma vs. State of U.P and others, 2015 (1) SCT 12).

Having regard to the aforesaid, the present petition is allowed. Let the petitioner be paid interest @ 9% per annum on the Rs. 9,29,397/- w.e.f 1.6.2012 till the date of the payment of the same i.e 25.8.2014 within a period of three months from the date a certified copy of this order is received by the respondents.. Compliance report thereof be sent to this Court forthwith.

March 10, 2016 **(RITU BAHRI)**
ritu **JUDGE**