

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

CWP-481-2014 (O&M)

Date of decision: 07.11.2016

Dharampal Singh**.....Petitioner****versus****State of Haryana and others****.....Respondents****CORAM: Hon'ble Mr.Justice Kuldip Singh**

Present: Mr.S.S.Dinarpur, Advocate with
Mr.Subhash Godara, Advocate for the petitioner
Mr.Naveen Sheoran, DAG Haryana

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?*

Kuldip Singh, J. (Oral)

Petitioner who was Member of Haryana Civil Services since 16.5.1994 retired from service on 30.6.2011 after putting in 18 years of service. The grouse of the petitioner is that his gratuity was not released till September 2015 and that now he is entitled to interest on delayed payment of the same. It also comes out that after his retirement, he was served with a charge sheet on 27.4.2012 (Annexure P1) under Rule 7 of the Haryana Civil Service (Punishment and Appeal) Rules, 1987 read with Rule 2.2(b) of the Punjab Civil Services Rules, Volume-II on the ground that he supplied wrong information under RTI Act to the applicant Smt.Bati etc. and on the basis of said information one CWP No.1072-2008 titled as Vijendra and others vs. State of Haryana and another was filed in this Court where wrong affidavit was filed. Ultimately, an inquiry was held and vide inquiry report dated 12.5.2015 (Annexure P21), petitioner was exonerated of the said two charges and consequently, inquiry was dropped.

The plea of the respondents in the written statement is regarding the charge sheet. However, in the written statement, it is not specifically

stated that any order withholding the gratuity was actually passed.

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

The petitioner retired from service on 30.6.2011. The respondents were required to show that at the time of retirement they were contemplating disciplinary proceedings and that the same were initiated. However, the charge sheet dated 27.4.2012 (Annexure P1) shows that the disciplinary proceedings were initiated after about 10 months of the retirement of the petitioner. The respondents were required to release the gratuity within three months of the retirement. If gratuity was not to be released the order was to be passed to withhold the same. But no such order was passed. The mere fact that after the date of retirement, charge sheet was issued, is itself no ground to withhold the gratuity. Charge sheet was regarding supplying of wrong information under the RTI Act and in case the charges were proved, an appropriate cut in the pension could only be imposed. In this case, in the charge sheet, it is not alleged that any financial loss was caused to the department.

It being so, I am of the view that the petitioner is entitled to interest on the delayed payment of gratuity. The respondents are directed to pay interest @ 9% per annum starting from 30.9.2011 till the date of payment. The amount shall be released within two months from the date of receipt of a certified copy of this order.

The petition is allowed accordingly.

07.11.2016
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:
Whether Reportable:

Yes
No