

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 4508 of 2015 (O/M)
Date of decision : 30.11.2016

Vijay Kumar Thukral

..... Petitioner (s)

Versus

State of Haryana and others

..... Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Naveen Daryal, Advocate, for the petitioner.

Mr. Naveen Sheoran, Deputy A.G. Haryana.

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 ?

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KULDIP SINGH J. (ORAL)

It comes out that the petitioner was working as a Sub Divisional Engineer in the respondent-department. He retired from service on 31.10.2013. It also comes out that a chargesheet dated 4.4.2014 was served upon him under Rule 2.2 (b) of the Punjab Civil Services Rules, Volume-II. Thereafter, in the inquiry report dated 24.11.2014, he was held guilty and a show cause notice dated 24.6.2015 was issued.

Today, the respondents have placed on file the copy of the final order dated 23.6.2016, , which is taken on record, showing that on the basis of judgment of the Civil Court, the inquiry has been dropped, meaning thereby that the petitioner has been exonerated.

The learned counsel for the petitioner does not dispute the fact that the payments have been released. However, it is claimed that these were released with delay. Since the petitioner was not at fault, therefore, the

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petitioner is entitled to interest at the rate of 9% per annum on the delayed payment.

The learned counsel for the petitioner relies upon the judgment of this Court in The Financial Commissioner and Principal Secretary to Government Haryana, Irrigation Department, Civil Secretariat, Chandigarh Versus Hasan Singh Kanwar, 2010 (1) SLR 788, wherein this Court took the view that if the gratuity is withheld on account of departmental proceedings and in the said departmental proceedings, the employee is exonerated, he is entitled to interest on the delayed payments. The learned counsel for the petitioner has also referred to the guidelines, issued by the Government for early finalization of the pension cases. The Government, vide F.D. Hr. No. 68/2/2001/3 Pension, dated 30.12.2003, in Clause 5 (a) has mentioned that interest has to be paid on the delayed payments of gratuity, pension and leave encashment etc. Clause 5 of the said instructions deals with the cases where the departmental proceeding is pending against an employee. Clause 5 is reproduced as reproduced as under :-

“5. However, these instructions would not be applicable in cases where the payment of retiral benefits is withheld on account of disciplinary proceedings pending against the said employee at the time of his retirement. A further issue would also arise regarding payment of interest on the retiral benefits in case of such employees who are facing disciplinary proceedings at the time of their retirement/superannuation from Government service. These cases should be decided in the following manner :

(i) In the case of an employee against whom disciplinary proceedings are pending at the time of retirement and the employee is **clearly exonerated** and steered clear of all charge

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during the process of disciplinary proceedings and proved innocent, the retiral benefits due to him should be paid alongwith intererst from the date of retirement till the date of payment.”

It goes to show that if the disciplinary proceeding is pending and the employee is **clearly exonerated**, he is entitled to interest on the delayed payments.

In the present case also, the departmental proceedings were pending against the employee and he was clearly exonerated. Therefore, he is entitled to interest at the rate of 9% per annum, starting three months from the date the gratuity became due till payment.

The present writ petition is accordingly allowed.

(KULDIP SINGH)
JUDGE

30.11.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No