

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

CWP No.5239 of 2015

Date of decision: 10.5.2016

Dr. Gyan Prakash Chander

... Petitioner

Versus

State of Punjab & ors.

... Respondents

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

Present: Mr. Nitin Kant Setia, Advocate,
for the petitioner.

Mr. Harkesh Manuja, Addl.A.G., Punjab.

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. A reading of the order dated November 30, 2013 passed by the Additional Sessions Judge, Ludhiana, confirms that the petitioner, a Civil Surgeon at Ludhiana, was not involved in the alleged embezzlement of funds in buying substandard medicines. The categorical finding is in paragraph 51 of the judgment where the trial Court has recorded that there is no evidence of conspiracy between the petitioner Dr. G.P. Chander and the other accused. The petitioner has not been given the benefit of doubt by then trial court and on the other hand has been honourably acquitted of the charges framed against him. He is innocent to the world. Interestingly and as a matter of fact, the petitioner as Civil Surgeon, Ludhiana had constituted a Committee consisting of Dr. Anil Verma and Balbir Chand, a Pharmacist, to make an enquiry and submit its report as to the happenings in the main stock attached to the office of

Civil Surgeon, Ludhiana and whether there was any element of corruption.

2. The petitioner retired honourably from service on February 28, 1999 without facing any charge-sheet or criminal action. On the other hand, an order (Annex P-1) was passed by the Accountant General (A&E), Punjab, addressed to the respondent Director Health & Family Welfare, Punjab, Chandigarh, approving release of gratuity and certifying that the petitioner is entitled to DCRG etc. in a sum of Rs.3.5 lacs. However, payment on this release order was withheld by the respondent in the Health Department, Punjab without passing an order in writing withholding the amount and then scuttled payment waiting for time to pass by before launching criminal prosecution against the petitioner six months after his retirement. It is that trail which has ended in acquittal of the petitioner.

3. The underlying constitutional principle is that no person will be deprived of his property save by authority of law. The action of the respondents is in clear breach of the protection offered by Article 300-A of the Constitution of India. Besides, gratuity is a one-time settlement and is not a recurring cause of action and accrues on the date of retirement on superannuation unless the claim of the State can sound in financial loss caused to the State exchequer. If there are no hurdles in the way of the retiring person it has to be paid without demur. In the case of the petitioner, the amount of gratuity has not been paid so far despite the pendency of this petition since March, 2015. If the gratuity is withheld without an order in writing and without just cause or legal justification

then it would follow that interest on delayed payment becomes a right which is compensatory in nature. The petitioner has been denied access to his money since 1999 for which period he deserves to be compensated in terms of money. There can be no dispute that a writ petition lies only to claim interest in view of the Full Bench decision of this Court in A.S. Randhawa v. State of Punjab, 1997(3) SCT 468.

4 As a result of the above discussion, the writ petition is allowed. The inaction of the respondents in refusing to release the money is held highly condemnable as it is kept back without any rhyme or reason and without justification. As a result, a direction is issued to the respondents to release gratuity forthwith with interest calculated @ 9% per annum from the date of retirement till realization on the principal amount of gratuity i.e. Rs.3.5 lacs. The principal amount with interest computed be paid to the petitioner not beyond six weeks from the date of receipt of a certified copy of this order.

(RAJIV NARAIN RAINA)
JUDGE

10.5.2016
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