

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

**CWP No. 7753 of 2014**

**Date of Decision: 09.12.2016**

***RAJ KAPOOR***

***... Petitioner***

**VS.**

***UNION OF INDIA AND OTHERS***

***..Respondents***

**CORAM:**    **HON'BLE MR. JUSTICE KULDIP SINGH.**

Present:     Mr. Manoj Chahal, Advocate,  
                     for the petitioner.

Mr. Arun Gosain, Central Govt. Counsel,  
for respondent No. 1- Union of India.

\*\*\*

**KULDIP SINGH, J (ORAL)**

The petitioner vide this writ petition has invoked the writ jurisdiction under Articles 226/227 of the Constitution of India praying for issuance of a writ Mandamus directing the respondents to release the retiral benefits i.e. gratuity and leave encashment alongwith interest.

Brief facts of this case are that the petitioner retired as Assistant General Manager from Hindustan Machine Tools, Pinjore (HMT). It comes out that HMT has been declared as Sick Industrial Unit in terms of Sick Industrial Companies (Special Provisions) Act, 1985 (for short 'the Act'). A rehabilitation scheme was prepared which is under implementation. In view of Section 22 of the Act, the proceedings against the company cannot continue till such time the scheme is being implemented.

Learned counsel for the petitioner, in the present case, presses for payment of leave encashment and gratuity alongwith interest on the delayed payments. As far as payment of gratuity is concerned, the same has

CWP No. 7753 of 2014

already been released to the petitioner during the pendency of the present writ petition.

Learned counsel for the respondents stated that as per scheme prepared by the Board for Industrial and Financial Reconstruction (BIFR), the retiral dues of the retired employees are being released as per their seniority. It has also been undertaken, on instructions that the due will be prepared as per the seniority and scheme prepared in terms of Section 22 of the Act.

It being so, this Court cannot order the respondents to immediately release the retiral dues to the petitioner, contrary to the scheme laid down under Section 22 of the Act. However, learned counsel for the respondents, on instructions, undertakes to release the retiral dues of the petitioner in terms of the said scheme.

In view of the above, the present writ petition is disposed of.

**December 9, 2016**  
Suresh Kumar

**(KULDIP SINGH)**  
**JUDGE**

|                                           |                   |                 |                  |
|-------------------------------------------|-------------------|-----------------|------------------|
|                                           | ✓                 |                 |                  |
| <b><i>Whether speaking / reasoned</i></b> | <b><i>Yes</i></b> | <b><i>/</i></b> | <b><i>No</i></b> |
|                                           |                   |                 | ✓                |
| <b><i>Whether Reportable</i></b>          | <b><i>Yes</i></b> | <b><i>/</i></b> | <b><i>No</i></b> |