

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CWP No. 9383 of 2014

Date of decision : 21.03.2016

B.S. Gupta

...Petitioner

versus

U.H.B.V.N.L Panchkula & ors.

..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Shrey Goel, Advocate  
for the petitioner.

Mr. Pardeep Singh Poonia, Advocate  
for the respondents.

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**RITU BAHRI , J. (Oral)**

Petitioner has approached this Court by way of instant writ petition filed under Articles 226/227 of the Constitution of India, seeking a writ in the nature of certiorari for quashing impugned order dated 03.10.2013 (P-11) and further prayer is for issuance of direction to the respondents to release the amount of 2<sup>nd</sup> ACP benefits.

The precise grievance of the petitioner is that he retired as AFM on 30.04.2004 after attaining the age of superannuation. One F.I.R No. 339 dated 25.07.2003 under Section 7/13/49/88 of Prevention of Corruption Act was registered against him and subsequently he was placed under suspension on 29.07.2003 w.e.f 25.07.2003. Petitioner was

reinstated on 17.07.2004. Then petitioner retired on 30.04.2004. Subsequently, he approached this Court by filing CWP No. 9841 of 2005 for releasing of pension and retiral benefits and writ petition was allowed on 23.11.2006 directing the respondents to release the 100% provisional pension and amount of leave encashment with 18% interest.

Thereafter, petitioner was acquitted vide judgment dated 17.01.2008 and he requested for release of amount of gratuity, commutation and other retiral benefits. But vide order dated 16.04.2009, the respondents treated his suspension period w.e.f 25.07.2003 to 19.02.2004 as leave of kind due. Against this, petitioner submitted representation for treating the above said period as duty period. Subsequently, he preferred an appeal for treating the period as duty period but no action was taken and hence, he sent a legal notice dated 10.08.2010.

Petitioner again filed CWP No. 18460 of 2010 for quashing order dated 16.04.2009 and for releasing the pension arrears of pay DCRG commutation benefits and other admissible benefits. This writ was allowed on 05.08.2011 and orders dated 16.04.2009 and 13.05.2010 were quashed and respondents were directed to count the suspension period w.e.f 25.07.2003 to 19.02.2004 as duty purpose and calculate the same for the purpose of pension etc. But no action was taken by the respondents and the petitioner filed Contempt Petition, which was

disposed of by observing that if there is any other pending claim, petitioner may represent the competent authority who shall consider and dispose off the same by passing a speaking order, within a period of three months. Petitioner submitted representation in this regard but no action was taken and petitioner filed another contempt petition No. 915 of 2013. During the pendency of the petition, respondents rejected the claim of the petitioner for interest without any reason.

Now the petitioner is seeking payment of interest on the delayed payment of Rs.18,930 on 06.07.2010, Rs.63,297/- on 28.03.2012 and Rs.5,36,765/- on 21.05.2012 and further prayer is for releasing the amount of 2<sup>nd</sup> ACP benefits.

The respondents are admitting in their written statement that they have paid Rs.5,36,765/- on 21.05.2012 and Rs.63,297/- on 28.03.2012 but it is clarified that nothing is pending on account of 2<sup>nd</sup> ACP scale and petitioner is not entitled to 2<sup>nd</sup> ACP Scale.

Learned counsel for the petitioner submits that petitioner is entitled to the interest on the delayed payment, as the petitioner retired on 30.04.2004 and was acquitted on 17.01.2008 but was released the benefits in the year 2012 as mentioned above.

Once the petitioner was acquitted in the year 2008 and charge sheet was dropped on 30.12.2008, the respondent authorities should have released his pensionary benefit after a period of 3 months

i.e on 01.04.2009.

For the reasons explained above, the petition is partly allowed and the respondents are directed to give 9% interest on delayed payment given to the petitioner mentioned above w.e.f 01.04.2009, in view of judgment of Hon'ble the Supreme Court in cases of ***D.D. Tewari (D) through LRs vs. 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) S.C.T (12)*** wherein payment of retiral benefit was delayed by the respondent-department and it has been held that the petitioner was entitled to interest @ 9% per annum from the date of entitlement till the date of actual payment.

**(RITU BAHRI)**  
**JUDGE**

**21.03.2016**

G Arora