IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.933 of 2015
Date of Decision: 24.05.2016

Pritam Chand ... Petitioner

Versus

Punjab State Civil Supplies Corporation Limited
and another ... Respondents

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

Present: Ms. Neha Jain, Advocate,
for the petitioner.

Mr. Sehaj Bir Singh, Advocate,
for Ms. Diya Sodhi, Advocate,
for the respondents.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.

1. The petitioner claims payment of interest on delayed release of retiral benefits and accordingly seeks directions to the respondent PUNSUP. He retired as an Inspector Grade-1 from PUNSUP Hoshiarpur on attaining the age of superannuation. It is an admitted fact that payments have been made on September 30, 2013 and nothing remains outstanding in pension account. The claim in this petition is for award of interest on delayed payments with interest @18% per annum (12% is claimed in the legal notice) on principal amount of Rs.7,98,816/-.

2. The petitioner approached this Court for the first time with his grievance in CWP No.798 of 2014 claiming interest on delayed payments of retiral benefits. The petition was disposed of on January 23, 2014 with a

direction to the respondents to decide the legal notice and in case, the petitioner was held entitled to the benefit the same would be released within a period of one month. In case, he was found not entitled to the benefit, the notice would be disposed of by passing a speaking order. The petition was disposed of ex parte PUNSUP. In the earlier petition and presently too interest has been claimed for the period June 30, 2010 to September 30, 2013 i.e. from the date of retirement till payment. The legal notice was issued on October 30, 2013 by registered AD address on the respondents.

3. The claim for interest has been rejected by the impugned order dated August 29, 2014. The reason for denial is that after the petitioner retired, he was found involved in the case of damaged Bardana of A-Class which loss had come to light, pending against the Dashmesh Rice Mill. The case remained pending and under consideration and the final decision was taken by the Managing Committee PUNSUP and only thereafter the retiral benefits were released vide order dated September 25, 2013 paid by two separate cheques both dated September 27, 2013. Since the amount was released without delay after final decision of the case of damaged Bardana which may have entailed financial loss to employer, the Managing Director, PUNSUP held in the impugned order that Corporation is not liable to pay interest on the retiral benefits. It is further explained in the written statement that on June 23, 2010 at the time of handing over the charge there were remarks of pending paddy milling noticed by an officer namely Sohan Singh who made a report which led to issuance of a show cause notice dated July 26, 2010 to M/s Dashmesh Rice Mills as well as to the petitioner. The notice stated that the petitioner and Sohan Singh, PUNSUP Centre In-

charge, PUNSUP Dasuya would contact the miller and take necessary steps for delivery of balance rice in the account of PUNSUP, so that paddy of PUNSUP could be delivered and the Corporation may not suffer any financial loss. Otherwise, it was ordered that the petitioner will also be held responsible for the financial loss that may be caused to the Corporation. The said letter is dated July 26, 2010. Further still, memo dated September 13, 2010 was sent to the petitioner regarding inferior Bardana (Rice). In the accounts of PUNSUP there was less excess amounting to Rs.26,341/- and of damaged Bardana amounting to Rs.1,24,459/- to which he was involved with cases were pending against the petitioner. In fact, the petitioner also acknowledged the pendency of the said cases vide letter dated July 22, 2010 and January 24, 2011. However, PUNSUP in its written statement admits that the petitioner was not served any show cause notice before retirement. It is also admitted that there was no pending charge-sheet on the date of retirement nor is there one standing after retirement. The question is whether the petitioner is entitled to interest on the amounts.

4. To examine this issue, two dates are relevant. First is date of retirement and the date of payment which are June 30, 2010 and September 30, 2013 respectively. The third milestone is the submission of the legal notice dated October 30, 2013 claiming @12% interest on delayed payments on the ground that similarly-situated person namely Pal Singh Dhami has been granted interest on delayed payments of retirement benefits. In this manner, interest was claimed at 12% for delayed payment of Rs.7,98,816/- towards retiral dues for the period 2010-13. The present petition has been filed on January 19, 2015 supported by an affidavit dated

November 12, 2014 which has been verified before the Oath Commissioner on January 19, 2015. The question is whether payment was delayed without justification? The justification given by the respondent-PUNSUP is that the case is pending against the petitioner and Dashmesh Rice Mill involving about Rs.1.5 lacs and odd for less excess towards Bardana.

Why I would dismiss the petition and not award interest on delayed payments.

5. The petitioner retired on June 30, 2010. For the aforestated reasons, he was not paid his remaining dues amounting to Rs.7,98,816/-. He neither approached Court nor made a request for release of retiral dues till after payments were made on September 30, 2013. The legal notice was issued on October 30, 2013 after about a month of release of outstanding dues. He approached this Court in January 2014 by filing CWP No.798 of 2014 which was disposed of on January 23, 2014. His request was rejected on August 29, 2014. He again approached this Court in the present writ petition on January 19, 2015. The fact that the petitioner remained dormant from June 30, 2010 (date of retirement) to October 30, 2013 (date of legal notice) the inference then is that he was fully aware that there was something owing against him which has been explained in the impugned order and in the written statement on pending cases against Dashmesh Rice Mills and the petitioner as noticed above. On their part, PUNSUP released the money since the Managing Director PUNSUP took a final decision which led to release of amounts vide order dated September 25, 2013 vide cheques dated September 27, 2013. He approached this Court again in the present petition after about year and a quarter. In his replication, the petitioner avers that on the date of retirement neither any departmental

proceedings were initiated against him nor any shortages were found. Therefore, after retirement as per settled law, the petitioner cannot be counted for any damages and no penalty can be imposed on him as he is no more a servant of the corporation. He asserts that after retirement, the petitioner was not supposed to visit the mills and get the delivery of paddy.

6. The petitioner does not deny receipt of Annex R-3 and R-4. Annex R-3 is a letter from the petitioner admitting that there was shortage of Rs.26,341/- on less/excess of his wheat crop 2007-08 and the amount may be deducted from my arrears and the balance may be given to him. Annex R-4 is also an admission made in petitioner's letter dated January 24, 2011 that an amount of Rs.24,028/- was shown recoverable from the petitioner's account for the same crop season. He admits that case regarding Bardana is still pending. He pleaded that till the decision of both these cases his gratuity/leave encashment may be stopped and balance amount may be given to him. In these circumstances, it cannot be said that PUNSUP had no sufficient justification for withholding the amounts and, therefore, the principle laid down by the Full Bench in <u>A.S. Randhawa v. State of Punjab and others</u>**,** 1997(3) SCT 468 would not entitle the petitioner for interest to flow automatically. The delay was not without reason and the petitioner acknowledged his deficit as noticed in the charge report dated June 30, 2010 Annex P-1 submitted by Sohan Singh, PDC, PUNSUP Dasuya to the District Manager, PUNSUP, Hoshiarpur regarding charge of Shri Dashmesh Rice Mills and the shortages of bags and weight of paddy lying for milling.

7. Accordingly, this Court finds no valid reason to award interest to the petitioner as claimed by him. Still further, the order dated January 23,

2014 passed in CWP No.798 of 2014 does not create a fresh cause of action as explained in Union of India and another v. M.M. Sarkar, (2010) 2 SCC 1126 and C. Jacob v. Director of Geology & Mining of Ministry and Anr., (2009) 10 SCC 115.

8. For the foregoing reasons, this petition is found devoid of merit and is hereby dismissed.

(RAJIV NARAIN RAINA)
JUDGE

24.05.2016
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