

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

RSA No.1549 of 2014 (O&M)

Date of Decision:22.09.2016

Jagdish Parsad Singhal

... Appellant

Vs.

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. Abhishek Singh, Advocate for the appellant.

Mr. Anil Mehta, D.A.G. Haryana.

P.B. BAJANTHRI J.

In the instant appeal, the appellant has questioned the validity of the trial court order dated 26.11.2012 and the appellate court order dated 22.7.2013.

The appellant is retired Superintending Engineer. He retired on 31.8.2005. His retiral benefits like gratuity, leave encashment were not settled apparently for the reasons that the appellant was facing three disciplinary proceedings. With reference to Annexure A-2 dated 8.1.2007 that the charges framed against the appellant was dropped. Consequently, his grievance is that he is entitled for retiral benefits alongwith interest. In this regard, he has filed suit before the trial Court. Trial Court partly decreed the suit. Thereafter, he preferred an appeal before the Appellate Court. The Appellate Court modified the order of the trial Court to the extent that granting leave encashment to the appellant. However, gratuity and interest was declined.

Still aggrieved by the orders of the trial court as well as the appellate court, the present appeal has been filed.

The appellant claim is with reference to Annexures A-2, A-3 and A-4 that the State of Haryana vide order dated 8.1.2007 dropped the charges framed against the appellant. Hence, he is entitled for gratuity alongwith interest from the date of his retirement. In this regard, learned counsel for the appellant relied on para-5(i) of office memorandum dated 22.2.2002.

On the other hand, learned counsel for the State relied on para-5(ii) and 5(iii) of office memorandum dated 22.2.2002 to contend appellant is not entitled to relief.

Extract of para 5(i) to 5(iii) reads as under:

“5(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 the charges during the process of disciplinary proceedings and proved innocent, the retiral benefits due to him should be paid along with interest from the date of retirement till the date of payment.

(ii) In case of an employee against whom disciplinary proceedings are pending at the time of retirement, and the said employee is held guilty, partially or fully, of the charges leveled against him, no interest would be payable on the retiral benefits in his case till a period of three months from the date of final decision on the disciplinary proceedings. If the delay in these cases is beyond a period of three months of the date of decision on disciplinary proceedings and the employee concerned has completed the formalities on his part, interest on such dues may also be allowed from the date of decision of disciplinary proceedings till the date of payment.

(iii) In case of an employee against who disciplinary proceedings are dropped on account of lack of evidence (i.e. he is not proved innocent) or disciplinary proceedings are dropped only on the ground that the employee has retired, no interest would be payable on the retiral benefits in his case till a period of three months from the date of final decision on the disciplinary proceedings. If the

delay in these cases is beyond a period of 3 months of the date of decision on disciplinary proceedings and the employee concerned has completed the formalities on his part, interest on such dues from the date of decision of disciplinary proceedings till the date of payment may also be allowed.”

Reading of para 5 (i), 5(ii) and 5(iii) final order passed in disciplinary proceedings is not a speaking order so as to give effect to para 5 (i) or para 5(ii) and 5(iii). Therefore, the State of Harayna is directed to pass a speaking order in respect of Annexures A-2, A-3 and A-4 and further decide whether the appellant is entitled to interest on retiral benefits from the date he retired from service till disbursement or not within a period of three months from today.

Disposed of accordingly.

22.09.2016
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**