

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

**CWP-15519-1992 (O&M)  
Date of decision: 16.03.2017**

**Shadi Lal Jain through LRs**

**.....Petitioner**

**versus**

**State of Punjab and others**

**.....Respondents**

**CORAM: Hon'ble Mr. Justice Kuldeep Singh**

Present: Mr. Gurcharan Dass, Advocate for the petitioner  
Mr. R. S. Pathania, DAG Punjab

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

**Kuldeep Singh, J. (Oral)**

Shadi Lal Jain petitioner, (now deceased, represented through his legal heirs) had filed this petition for release of interest on the delayed payment of retiral benefits. It was stated that the petitioner worked as SDO PWD (Irrigation Branch) was compulsorily retired from service on 20.3.1977 under Rule 3(1)(2) of Punjab Civil Service (Premature Retirement) Rules, 1975. Petitioner claims that he was paid anticipatory pension and arrears late, for which he pleads as under:-

- 5. That the petitioner was paid arrears of anticipatory pension from 21.3.1977 to 31.10.1987 for Rs.23,879/- (excluding the D.A.) on 23.11.1987, arrears of the anticipatory pension from 1.11.1987 to 30.4.1991 for Rs.10,387/- (including D.A. on pension) on 10.7.1991 and was paid monthly pension bills from 5/91 to 10/91 for Rs.1,701/- on different dates i.e. Rs.567/- were paid on 19.8.1991, Rs.567/- were paid on 9.10.1991 and Rs.567/- were paid on 4.12.1991 though the payment of pension was due monthly on the first day of each*

*month after the date of retirement. Thus, the total payment of anticipatory pension of Rs.35,967/- was made to the petitioner after undue delay on the dates mentioned above.*

He further claimed that DCRG was finally determined to be due as on 31.3.1992 was found to be Rs.1,60,625.90, out of which, Rs.35,967/- were already paid on different dates as mentioned above and difference of Rs.1,24,658.90 was paid on 7.4.1992. Therefore, for the delayed payment, he is entitled to interest.

The State in the reply has taken a stand that the petitioner was compulsorily retired from service on 20.3.1977 w.e.f. 21.3.1977. He worked in SYL Canal Project only for 20 days i.e. from 1.3.1977 to 20.3.1977. Petitioner was working as SDO at Beas Project, Talwara before his reversion to Sectional Officer rank. Thereafter, he remained absent from duty from 24.10.1967 to 7.3.1971, despite his posting orders to BSL Project, Sunder Nagar. He was directed to apply for leave for regularization of the period from 24.10.1967 to 7.3.1971 vide letter dated 4.3.1977 endorsed on 4.4.1977 (Annexure R3). He applied for regularization of leave only on 26.3.1985 i.e. after the lapse of 8 years. The said period was regularized by the Secretary, Irrigation and Power vide letter dated 21.4.1986. It was stated that due to this reason, service book of the petitioner could not be completed and pension case could not be processed in time. However, in order to avoid financial hardship, anticipatory pension from 21.3.1977 to 31.10.1987 was granted to the petitioner and paid to him on 23.11.1987. Thereafter, the petitioner did not take any interest to get his pension. Petitioner vide letter dated 2.4.1991 had asked the respondents to pay the pension from 1.11.1987 onwards and accordingly anticipatory pension was released. There is no delay on the part of the department.

In the replication, the petitioner has stated that the order of his reversion was stayed by the Hon'ble High Court in CWP No.2416 of 1967. Therefore, question of his absence from duty from 24.10.1967 to 7.3.1971 will not arise.

Perusal of letter dated 12.5.1972 by the Executive Engineer, Form Works Division, Talwara Township shows that the delay was due to non-completion of service book in time. He further claims that there was no need to apply for leave on the prescribed proforma as his leave was sanctioned by Sh.T.V. Jaganathan, General Manager, Beas Project, Talwara Township on 24.1.1977. Petitioner has also produced the said letter dated 24.1.1977 (Annexure P5), vide which, his earned leave was sanctioned from 24.10.1967 to 20.2.1968 and half pay leave for 178 days from 21.2.1968 to 7.7.1968, 16.6.1969 to 5.7.1969 and 16.6.1970 to 5.7.1970 was sanctioned.

In the counter affidavit, respondents have stated that the said letter is not available on their file.

I have heard learned counsel for both the parties and have also carefully gone through the file.

The facts and circumstances shows that the petitioner was compulsorily retired on 20.3.1977. Letter dated 24.1.1977 (Annexure P5) shows that his leave for the period from 24.10.1967 to 5.7.1970 was sanctioned by General Manager, Beas Project Talwara Township. Even assuming that some leave was required to be applied and the petitioner did not apply in response to the letter (Annexure R3), the respondent department was not supposed to wait for indefinite period, which in this case is 8 years and should have taken a decision regarding the said period of

absence. Therefore, the plea of the respondents that the service book could not be completed due to non-sanction of the leave, cannot be accepted particularly, in view of the letter dated 24.1.1977 (Annexure P5). It appears that some correspondence in the respondent department went missing due to which the completion of service book was delayed. Consequently, pension and gratuity of the petitioner was delayed for which, the department is to be held liable.

Keeping in view the fact that the petitioner was compulsorily retired from service suddenly and department did not get any time to complete paper work, therefore, in these circumstances, six months time is deemed sufficient to complete the service book and other formalities and release of pension and DCRG. Therefore, starting from 20.9.1977 till the date of payment, the petitioner shall be entitled to interest @ 9% per annum on the delayed payment from the date the pension for the each month became due and also on the DCRG. The arrears be paid to the legal representatives of the petitioner within three months from the date of receipt of a certified copy of this order.

Petition is accordingly allowed.

**16.03.2017**

*gk*

**(Kuldip Singh)  
Judge**

Whether speaking/ reasoned:

Yes

Whether Reportable:

No