

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

**C.O.C.P. No.1509 of 2004
Date of Decision: 01.02.2017**

J.P.Upadhaya

..... Petitioner

Versus

Ms. Nisha Sharada, Director Public Instructions
(Colleges), Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: None for the petitioner.

Mr. Nilesh Bhardwaj, Deputy Advocate General, Punjab.

None for the Management of the Private College(s).

JASWANT SINGH, J. (Oral)

The petitioner has retired from the substantive rank of Senior Lecturer-cum-Officiating Principal with the Guru Nanak College, Ferozepur Cantt., after rendering 27 years of service on 31.12.2001. The said College is a Privately Managed Aided College, receiving grant-in-aid from the Government. The claim of retiral benefits along with gratuity and leave encashment raised by the petitioner by filing CWP No.9782 of 2004 was disposed of by this Court vide order dated 08.07.2004 (**Annexure P-5**), directing the respondent authorities to pass a speaking order within one month from the receipt of certified copy of the order and thereafter release the payments to which the petitioner was entitled. For non-compliance of the aforesaid order within stipulated time, the present contempt petition has been filed.

Upon notice, reply of the Private College/respondent No.4 reveals that a speaking order dated 27.09.2004 came to be passed. The record bares out that the entire retiral benefits have since been released except gratuity and leave encashment for which the payment has to be made by the Management

and the State Government asserts that it has no liability to reimburse the said amount because of no provision in the Rules for such release of grant-in-aid towards such payment.

This Court on 22.04.2008 passed the following order:-

“ In deference to the order dated February 18, 2008, it is stated by Mr. M.C.Berry, learned Additional Advocate General, Punjab, that the release of grant-in-aid to Guru Nanak College, Ferozepur Cantt has since been withheld.

Shri Rajiv Narain Raina, learned counsel for some of the office-bearers of the management of the College, states that they are ready and willing to pay the provident fund amounting to Rs.1,96,126/-.

It further appears that no gratuity or leave encashment have been paid to the petitioner so far.

There is no dispute that the petitioner retired from service on 31.12.2001 after rendering more than 27 years of service in the college.

In these circumstances, instead of asking the petitioner to approach the management for the release of his retiral benefits, it is directed that the petitioner may appear before the Director Public Instructions (Colleges), Punjab on any working day on or before 31.5.2008 and the DPI (Colleges) shall calculate and release the entire arrears of provident fund, gratuity and the leave encashment to the petitioner along with interest @ 9% per annum and may thereafter deduct the aforesaid amounts from the grant-in-aid payable to the college. Thereafter only, the grant-in-aid shall be release to the college.

Let a short affidavit regarding compliance of the aforesaid direction be filed on the adjourned date.

Adjourned to 15.7.2008.

Let a copy of this order, duly attested under the signatures of the Bench Secretary, be supplied to Shri M.C.Berry, Learned State Counsel, at the earliest, for information and necessary compliance. ”

Learned State Counsel submits that the aforesaid order dated

of 2008, which was subsequently dismissed on 18.05.2009. It so transpires that the Management has filed S.L.P. before the Hon'ble Supreme Court, wherein the operation of the aforesaid order dated 22.04.2008 has been stayed. Learned State Counsel further submits that as on date, there is no statutory Rule or Regulation providing for reimbursement to the employees of the Private Aided Management. That apart, he submits that the Management by passing a speaking order dated 27.09.2004 have already complied with the directions.

In view of the above, no further action is warranted and, therefore, the present petition stands dismissed.

February 01, 2017

Gagan

(JASWANT SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>