

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

**CWP No. 10185 of 2014 (O&M)
Date of decision : 20th January, 2017**

Joginder Pal

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. M.S.Rana, Advocate
for the petitioner.

Mr. Nikhil Chopra, Additional Advocate General, Punjab.

KULDIP SINGH J. (ORAL)

The petitioner was working as a driver in the department of Punjab Roadways, Jalandhar. The bus driven by him met with an accident on 14.06.2010. A departmental inquiry was initiated against him and ultimately, after the departmental inquiry, punishment order dated 11.11.2011 (Annexure P-1) was passed, vide which, he was compulsory retired from service. It was further directed that he will get pension as per Rule 5.32 of Punjab Civil Service Volumn-II.

It comes out that thereafter pension was paid to him on 10.07.2012, commuted pension was paid to him on 12.07.2012 and GPF was paid on 15.10.2012 i.e. after delay. Leave encashment was paid in September, 2012. Now, when gratuity was released on 30.01.2014, an amount of Rs. One Lakh was withheld which according to the petitioner is illegal. Petitioner claims that he is entitled for interest on the delayed payment of the retiral benefits.

Respondents No. 1 to 3, in the reply, has taken the stand that in the accident, the bus was damaged. The repair was carried out in which an expenditure of ₹2,87,900/- was incurred due to rash and negligent driving by the petitioner and is a financial loss to the Government. It is further disclosed that in the claim, the case filed before the Motor Accidents Claim Tribunal, Karnal and award for compensation to the tune of ₹23,41,000/- along with interest @ 7.5% from the date of filing of claim petition plus

cost of ₹5,876/- was passed but the Insurance Company has not deposited the amount with the Court. At the time of compulsorily retirement, the eight claim petitions were pending before the Motor Accident Claims Tribunal. Due to the pendency of the said eight claim petitions, the amount of gratuity has been partly withheld. Admittedly, for the rash and negligent driving and causing the accident, the petitioner-driver was charge-sheeted. There is no charge-sheet that the petitioner caused financial loss to the Roadways on account of damage to the bus. Therefore, without holding any inquiry and without recording the findings, no financial loss can be recovered. The only ground mentioned in the reply of the respondent is that eight claim petitions are pending. However, it will depend upon the award of the motor accident Claims Tribunal whether the petitioner is held liable to pay the amount, Tribunal can recover the amount, if so ordered. However without passing any order, the gratuity of Rs. One lakh could not be withheld.

As a result, petition is allowed. The respondents are ordered to release the withheld gratuity of Rs.1 lakh with interest at the rate of 9% per annum starting three months from the date of petition till the date of payment. For the delayed payment of other retiral benefits as noticed above, the respondents shall also liable to pay interest @ 9% per annum starting three months from the date of retirement till the date of payment.

Petition is allowed accordingly.

(KULDIP SINGH)
JUDGE

20th January, 2017

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Whether speaking / reasoned

Yes

Whether Reportable

No