IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 10188 of 2014 (O&M)
Date of decision: 20.03.2017

Dr. Avtar Singh

... Petitioner

versus

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Amardeep Singh Gill, Advocate for the petitioner.

Mr. Anshul Gupta, AAG Punjab.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH, J. (ORAL)

The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for quashing the letter dated 26.04.2013 (Annexure-P4) vide which the petitioner has been denied interest on delayed payment of pensionary benefits and directing the respondents to pay the interest @ 18% per annum from the date the retiral benefits became due.

The petitioner has joined the service as Medical Officer with the respondent and retired as Civil Surgeon on 31.07.2009. According to him, some of the payments were made late for which he is claiming the interest. According to him, out of leave encashment amounting to ₹ 6,31,400/- and ₹ 3,02,530/- was paid on 31.12.2010 after a period of about 1½ years. Secondly, GPF amounting to ₹ 1,23, 212/- was paid on 22.04.2010 nearly after a gap of about nine months and thirdly, gratuity of ₹ 10 lacs was paid on 19.04.2012 i.e. after a gap of more than 2 ½ years.

In the reply, it is stated that the amount of leave encashment amounting to ₹ 6,31, 400/- had been paid to the petitioner vide cheque No. 479087 dated 24.09.2009 and that is within time. The revision of leave encashment amounting to ₹ 3,02,530/- was paid on 31.12.2010 vide cheque No. 496784 and it was stated that it was sent to Director Health Service Punjab Chandigarh on 23.10.2009 (Annexure R2) and received back after appropriate sanction on 15.11.2010.

Regarding GPF it is stated that 90% GPF advance was withdrawn by the petitioner before his retirement and 10% of general provident fund amounting to the tune of ₹ 1,23, 212/- was paid to the petitioner. The petitioner applied for final 10% withdrawal of GPF only on 11.02.2010 which was forwarded to competent authority and was paid on 22.04.2010 vide cheque No. 486127, but, this should have been applied six months before the date of retirement. Regarding DCRG, it is stated that case of payment of DCRG amounting to ₹ 10 lacs was received in defendant office on 27.07.2009. It was then forwarded to Director Health Services Punjab Chandigarh on 03.08.2009 and sanction for payment was received on 21.10.2010. It is further stated that some audit objection were pending which were replied by the petitioner on 09.02.2011 (Annexure-R7). Sanction to pay said amount was allowed on 05.01.2012, therefore, the delay occur due to the pending audit objection.

I have heard learned counsel for the parties and perused the file carefully.

So far as the revised leave encashment is concerned, it was required to be paid within three months from the date it becomes due. Therefore, starting three months from the date i.e. 3 months ending after retirement till actual payment revised leave encashment amounting to ₹ 3,02,530/-, petitioner is entitled to interest @ 9% per annum.

Regarding the GPF amounting to ₹ 1,23, 212/- on the retirement of the petitioner, the department was required to pay the sum without waiting for any formal application, therefore, delayed payment on GPF also, department is liable to pay 9% interest starting three months from the date of retirement till the date of payment.

Regarding the late payment of DCRG, it is claimed that some audit objections were pending. Copy of the audit objection is annexed as R1. Audit objections are regarding supply of some information from as many as six officers who remained posted at the different times. Neither there are any allegations against the petitioner that he embezzled government's money nor any show-cause notice was issued to him. No order regarding the withholding of DCRG was passed. Therefore, mere pendency of reply to the audit objection is not a sufficient ground to withhold the DCRG. As such, petitioner is also entitled to 9% interest on delayed payment of DCRG starting three months from the date of retirement till the actual payment.

The civil writ petition is allowed in view the above observations.

(KULDIP SINGH)
JUDGE

20.03.2017
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Whether speaking/non-speaking : Yes/No
Whether reportable : Yes/No