IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-13402-2015 (O&M)
Date of decision: 03.2.2017

Ashok Kumar

…..Petitioner

versus

Uttar Haryana Bijli Vitran Nigam Ltd. and others

……Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Naveen Daryal, Advocate for the petitioner
Mr.R.D.Bawa, Advocate for the respondents

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?

Kuldip Singh, J. (Oral)

Learned counsel for the respondents has filed short reply on behalf of respondent nos.1 to 3. The same is taken on record. It shows that out of leave encashment of Rs.133760/-, a sum of Rs.1,26,354/- was released w.e.f. 21.2.2014. Petitioner retired from service on 31.8.2002. It is claimed that charge sheet dated 2.5.2002 was pending and that the retirement order was conditional. It is not mentioned at all in the reply that in consequent to the charge sheet, some inquiry was conducted or some findings were recorded. Therefore, merely by issuing a charge sheet, the amount could not be withheld unless the department decided to further proceed with the matter. Leave encashment was delayed by 11 ½ years. Therefore, starting three months from the date of retirement till date of payment, the petitioner is entitled to interest @ 9% per annum on the delayed payment of leave encashment.

GPF amounting to Rs.4,96,026/- was released on 19.12.2002 i.e.

within four months. Keeping in view the negligible delay of one month, no interest is to be paid on the said amount.

100% provisional pension was allowed vide order No.338 dated 25.11.2013. Arrears of pension from 1.9.2002 to 31.5.2013 amounting to Rs.1,44,917/- were released on 12.7.2005. Therefore, the respondents shall liable to pay interest @ 9% per annum on the delayed payment of arrears starting three months from the date of retirement till date of payment.

Similarly, arrears of difference of pension amounting to Rs.3,83,772/- was drawn and after deducting income tax Rs.3,80,163/- were paid on 31.3.2014. Therefore, on these arrears also interest shall be payable @ 9% per annum starting three months from the date of retirement till date of payment.

It also comes out that arrears of different amount of pension and gratuity amounting to Rs.2,47,166/- were released on 9.8.2016. On this amount also, interest @ 9% per annum shall be payable starting three months from the date of retirement till date of payment.

Learned counsel for the petitioner further contends that in the year 2001, his increments were stopped. However, he retired in the year 2002 and after his retirement since there was no increment, the same could not be stopped. However, on account of stoppage of increments, after his retirement, some deduction amounting to Rs.9400/- was made in the year 2016. It being so, the respondents are directed that in case it is found that any increment has been stopped after the retirement of the petitioner, then on account of the same no deduction is permissible for the simple reason that after retirement, no increment is to be given. Therefore, deductions made, if any, shall also be refunded to the petitioner.

Petition is accordingly allowed to the above noted extent. Pension of the petitioner be accordingly refixed. Needful be done within two months from the date of receipt of a certified copy of this order.

03.02.2017 **(Kuldip Singh)**
gk **Judge**

Whether speaking/ reasoned: Yes
Whether Reportable: No