

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 15099 OF 2016
DECIDED ON: SEPTEMBER 20, 2017

BALJEET SINGH KHATKAR

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Manish Soni, Advocate,
for the petitioner.

Mr. Ram Tilak Redhu, DAG, Haryana.

JASPAL SINGH, J.

By virtue of instant petition preferred under Article 226/227 of the Constitution of India, petitioner has sought issuance of a writ in the nature of certiorari for quashing of impugned order dated 15.07.2016 (Annexure P-13) passed by respondent No.4-Superintending Engineer, YWS Circle Jind and thereby directing respondent No.4 to release the full and entire amount of DCRG, commutation of pension and also balance salary of suspension period accruing in his favour as he has been exonerated from departmental proceedings vide order dated 29.01.2016 (P-6) along with interest @ 24% per annum from the due date i.e. 28.02.2015 till the realization of the same. And further for issuance of direction to respondents No.1 and 2 to take action against

respondent No.4 for not following the law settled by this Court vide judgments (Annexure P-14 and P-15) as well as rule 2.2 (b) CSR Volume II.

2. The contention of learned counsel for the petitioner is that the petitioner stood retired on 28.02.2015 on attaining the age of superannuation but till date the amount on account of DCRG has not been released to the petitioner on the ground that FIR No.5/2014 is pending against the petitioner, in which, challan was presented on 10.11.2016 i.e. after his retirement. Moreover, he stood exonerated in the departmental proceeding, which was pending against the petitioner on the date of his retirement.

3. He further submits that case of the petitioner is squarely covered within the parameters laid down by Division Bench of this Court in case captioned as “***Subhash Chand Singla v. The Punjab State Cooperative Supply and Marketing Federation Ltd. and another***”, 2007(4) SCT, 425 as well as by Single Bench passed in CWP No. 3567 of 2006, captioned as “***Atam Bodh Sharma v. State of Haryana and others***” decided on 09.10.2006, whereby it has been held that during the pendency of trial, gratuity of the petitioner cannot be withheld. Thus, withholding of the above said amounts/retiral benefits is neither legally nor factually justified rather such an act of the respondents is liable to be deprecated.

4. In the light of aforesaid discussion, instant petition is allowed in the light of ***Subhash Chand Singla's*** case (supra) (Annexure P-15) and ***Atam Bodh Sharma's*** case (supra) (Annexure P-14) as well as in terms of Rule 2.2 (b) CSR Vol.II, with the direction to the respondents to release the amount on account of DCRG and commutation of pension to the petitioner. Further, the

amount(s) have been withheld without any cogent reason and thus, the petitioner also deserves interest on delayed payment thereof. Accordingly, he is entitled to interest @ 9% per annum on delayed payment, after the expiry of three months from the date of his retirement till the actual payment, which shall be calculated and paid to the petitioner, within a period of two months from the date of receipt of certified copy of this order. In case of non-compliance of this order, petitioner shall be at liberty to approach this Court.

SEPTEMBER 20, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned *Yes*
Whether reportable *Yes/No*