

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

Sr. No.222

Civil Writ Petition No.20252 of 2015
DECIDED ON: October 04, 2017

TEJ SINGH

..PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Jasbir Singh, Advocate,
for the petitioner.

Mr. Manoj Bajaj, Additional Advocate General, Punjab.

JASPAL SINGH, J. (ORAL)

By virtue of the instant civil writ petition, preferred under Article 226/227 of the Constitution of India, petitioner has sought the issuance of a writ in the nature of Mandamus directing the respondents to release the arrears of pension, gratuity, leave encashment and GPF w.e.f. January 31, 2012 i.e. the date of superannuation on completion of 58 years of age with interest @ 18% per annum.

2. During the course of arguments, it has emerged that an amount accrued on account of leave encashment has already been paid by the respondents during the pendency of the instant petition. However, other benefits i.e. pension, gratuity and GPF have not so far been released/disbursed to the petitioner. Even no interest has also been awarded on the delayed payment of amount of leave encashment. It has also

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emerged that during the pendency of instant petition, respondents have already passed the order dated January 22, 2016 (P-5) which is annexed in connected CWP No.3382 of 2016. The relevant part of which is extracted below:-

It is clear after perusing the above said order, that a employee has been running on unauthorised leave w.e.f. 21.07.2003. Keeping in view the aforesaid facts, it may be concluded that, "Delinquent official has resigned/ceases to be in service on and from 21.07.2003" but this employee had been suspended from service on 30.03.2007 by the then Deputy Commissioner. In this manner he was considered to be in service on 30.03.2007 and was placed under suspension. In these circumstances, considering the employee to have been resigned/out of service since 21.07.2003 will be contradictory. In addition to it, this case pertains to Govt. employee here Govt. is "Employer". The Govt. shall behave like "Model Employer". The Govt. cannot take contradictory approach taking undue hardship. In this manner keeping in mind earlier action taken and decision of Hon'ble Supreme Court and making 'harmonious construction', it would be just, fair and reasonable that employee is considered dismissed from service w.e.f. 30.03.2007 and the period 21.07.2003 to 30.03.2007 be treated as leave of kind due and according to this his retiral cum pensionary benefits be calculated as per the record and order be issued forthwith.

I, agree with the aforesaid opinion of District Attorney (Administrative) D.C. Office, Ludhiana and pass the order in consonance with the same.

3. A glance at the aforesaid order transpires that petitioner was dismissed from service w.e.f. March 30, 2007. However, the period of absence w.e.f. July 21, 2003 to March 30, 2007 has been treated as leave of

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kind due. Further, retiral-cum-pensionary benefits have also been calculated as per the submission made by the learned counsel for the petitioner. No such, benefits have so far been released to the petitioner. Moreover, order dated January 22, 2016 (P-5) is already under challenge in another Civil Writ Petition No.3382 of 2016 captioned as ***Tej Singh vs. State of Punjab and ors.***

4. After passing of order dated January 22, 2016 (P-5) as far as relief of pension and gratuity are concerned, the same shall be considered by the Court in another connected Civil Writ Petition No.3382 of 2016. As regards General Provident Fund, amount till date has not been released which can be termed to be the hard-earned money of the petitioner having been contributed during his service. It cannot be withheld by the respondents, the same is ordered to be disbursed to the petitioner within a period of 45 days from the date of receipt of a certified copy of this order. Apart from it, petitioner shall also be entitled to interest @ 9% on the delayed payment of General Provident Fund along with the normal interest accrued on the amount contributed, after the period of three months from the date of his alleged retirement i.e. on January 31, 2012 on completion of 58 years of service.

5. In view of the aforesaid observations, instant petition stands disposed of.

October 04, 2017
Ankur

(JASPAL SINGH)
JUDGE

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