

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.19587 of 2016.

Date of Decision:-05.07.2017.

Pyare Lal, Usher (Retd.)

.....Petitioner

Versus

Punjab and Haryana High Court, Chandigarh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. S.B. Kaushik, Advocate for the petitioner.

Mr. Munish Kapila, Advocate for respondent No.1.

Mr. Barjesh Mittal, Advocate for respondent No.2.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioner has sought for a direction to the respondents to pay interest on belated settlement of DCRG and leave encashment for the period from 31.10.2011 to October, 2015.

2.) Admittedly, the petitioner was facing parallel proceedings as on the date of his retirement i.e. on 31.10.2011. Thus, the concerned respondent rightly invoked relevant provision in withholding of DCRG and leave encashment. It is learnt that petitioner is stated to have been exonerated in disciplinary proceedings and acquitted in the criminal proceedings in the year 2014. Based on the subsequent development, the competent authority proceeded to settle the petitioner's grievance relating to

DCRG and leave encashment. In this regard, respondent No.1 has made

communication to the second respondent – Office of the Accountant General on 18.9.2015. Thereafter, on 10.11.2015, both DCRG and leave encashment have been settled. In view of these facts and circumstances, question for consideration is whether the petitioner is entitled for interest on belated settlement of DCRG and leave encashment or not? Learned counsel for the petitioner submitted that admittedly, the petitioner has been exonerated in disciplinary proceedings and acquitted in the criminal proceedings. Consequently, he is entitled for retiral benefits w.e.f. 31.10.2011, the date on which he attained the age of superannuation and retired from service. The learned counsel for the petitioner submitted that petitioner is entitled to interest @ 8% per annum on belated settle of DCRG and leave encashment. In support of his claim, petitioner relies on the reported decision of this Court reported in 2010 (1) SLR 788 (*The Financial Commissioner and Principal Secretary to Govt. of Haryana, Irrigation Department, Civil Secretariat, Chandigarh Vs. Hasan Singh Kanwar*).

3.) Learned counsel for respondent No.1 vehemently submitted that as on the date of petitioner's retirement on 31.10.2011, he was facing parallel proceedings. Consequently, he was not entitled for DCRG and leave encashment. As soon as he has been exonerated and acquitted, petitioner's grievance relating to settlement of DCRG and leave encashment was proceeded on 18.9.2015 and it was settled on 10.11.2015. Therefore, there is no lapse on the part of first respondent since the first respondent has invoked relevant provision that an employee, if he is facing criminal proceedings or disciplinary proceedings, in that event he is not entitled for

to interest on belated settlement of retiral benefits. Specific statement has been made in the written statement.

4.) Learned counsel for the second respondent submitted that first respondent has processed the settlement of DCRG and leave encashment of the petitioner only on 18.9.2015 and it was settled on 10.11.2015. Hence, there is no delay on the part of the second respondent so as to liable for payment of interest on belated settlement of retiral benefits of the petitioner.

5.) Heard learned counsel for the parties.

6.) Crux of the matter is whether the petitioner is entitled for interest on belated settlement of retiral benefits like DCRG and leave encashment or not? Undisputedly, petitioner was facing parallel proceedings as on the date of retirement on 31.10.2011 and he had been exonerated in the year 2014. Consequently, the respondents have settled petitioner's retiral benefits in the month of November, 2015. Having regard to the facts and circumstances, petitioner is entitled for interest on belated settlement of retiral benefits. Assuming that the petitioner has been punished in disciplinary proceedings or criminal proceedings in that event, petitioner was entitled to withholding retiral benefits depending upon the outcome of the order and in that event, he is not entitled for interest. Since the petitioner has been exonerated in the disciplinary proceedings and acquitted in the criminal proceedings, therefore, he is entitled for interest on belated settlement of DCRG and leave encashment. This Court in the case of **"The Financial Commissioner and Principal Secretary to Govt. Haryana, Irrigation Department, Civil Secretariat, Chandigarh Vs. Hasan Singh Kanwar"** 2010 (1) SLR 788 held that interest cannot be deprived which may have accrued on the withheld amount. Having regard

to the lapse on the part of first respondent in not processing the DCRG and leave encashment with the second respondent during the intervening period from October, 2011 to September, 2015, the first respondent is liable to pay interest on the belated settlement of DCRG and leave encashment to the petitioner @ 8% per annum. The same shall be calculated and disbursed to the petitioner within a period of 3 months from today.

7.) Petition stands allowed.

8.) At this stage, learned counsel for the first respondent disputed the relief relating to leave encashment. If the petitioner has been extended the benefit of leave encashment as and when petitioner had attained the age of superannuation and retired from service on 31.10.2011, in that event, petitioner is not entitled for any interest on leave encashment. These factual aspects be examined with records while calculating interest and its disbursement.

(P.B. BAJANTHRI)
JUDGE

July 05, 2017.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.