

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

**CWP-3800-2012 (O&M)
Date of decision: 18.05.2017**

Parkash Chand

.....Petitioner

versus

Food Corporation of India and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.M.S.Bedi, Advocate for the petitioner
Mr.Ish Puneet Singh, Advocate for
Mrs.Jatinder Jit Kaur, Advocate for respondent nos.1 to 3

- 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)

Petitioner, who was working as a Manager with Food Corporation of India superannuated from service and was accordingly relieved vide order dated 31.7.2010 Annexure R1. It also comes out that at that time, he was facing some departmental proceedings. Thereafter, the punishment order Annexure R2 was passed on 12.8.2010 and another punishment order dated 20.9.2010 (Annexure R3) was passed vide which amount of Rs.60,000/- was ordered to recovered. Thereafter, the arrears of the petitioner were released as under:-

<i>Sr. No.</i>	<i>Retiral Due</i>	<i>Date of payment</i>	<i>Amount paid</i>
1	Leave encashment	14.9.2011	Rs.2,42,867/-
2	Gratuity	25.10.2011	Rs.9,04,688/-
3	CPF amount	27.10.2011	Rs.10,71,950/-
4	Selection Grade Arrears	19.1.2012	Rs.56,987/-
	Selection Grade Gratuity	19.1.2012	Rs.21,076/-
	Selection Grade Leave Encashment	19.1.2012	Rs.11,836/-
		Total	Rs.23,09,404/-

The petitioner claims interest on the delayed payment of the arrears.

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

Learned counsel for the respondent has not disputed the factual position. However, he has taken a stand that the formal order of retirement was passed on 24.8.2011 (Annexure R4). Therefore, the payments were to be released within three months from the date of said order.

I am of the view that when disciplinary proceedings are pending against the petitioner at the time of retirement, only leave encashment and gratuity can be withheld. There is no ground to withhold CPF and selection grade arrears. Therefore, for the delayed payment of CPF and selection grade arrears, the petitioner will be entitled to interest @ 9% per annum starting three months from the date of retirement i.e. 31.07.2010 till the date of actual payment. Regarding leave encashment and gratuity, last punishment order was passed on 20.9.2010. Therefore, the payments should have been released within three months from the date of passing of the last order i.e. from 20.12.2010. Therefore, from 20.12.2010, the petitioner shall be entitled to interest @ 9% per annum on the delayed payment of leave encashment and gratuity. There is no force in the contention of learned counsel for the respondent that the said period of three months shall start from the date the formal order of retirement was passed i.e. from 24.8.2011. When the petitioner was superannuated on 31.7.2010 order Annexure R1 was passed and no further formal order of retirement was required to be passed. Therefore, the said order cannot be made basis

to deny payment of interest on the delayed payment.

The petition is allowed to the above noted extent.

18.05.2017
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:
Whether Reportable:

Yes
No