IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-22139-2014 (O&M)
Date of decision: 18.01.2017

Bhullai

...Petitioner

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr.S.K. Rattan, Advocate
for the petitioner.

Mr. Rupam Aggarwal, DAG, Punjab.

Ms. Ekta Arora, Advocate
for respondent No.4.

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JAISHREE THAKUR, J. (ORAL)

The instant writ petition under Article 226 of the Constitution of India has been filed praying for issuance of a writ, order or direction in the nature of mandamus directing the respondents to pay interest @ 12% per annum on delayed payment of gratuity amounting to ₹ 62,965/-, which was paid after an inordinate delay of 14 years .

In brief, facts are that father of the petitioner worked as Lab Attendant (workcharge) with the respondent-State. Sh. Ram Charan father of the petitioner, retired from the Irrigation Department on 30.09.2000. Having retired on 30.09.2000, on attaining the age of superannuation, the petitioner would have been entitled to retiral benefits including his gratuity which was not released within specified period. The deceased Government Servant filed several representations to the concerned department asking for the release of gratuity but to no avail. Unfortunately, the petitioner's father died on 14.03.2009. After the death of the father of the petitioner, the legal heirs approached the department concerned for releasing of the said gratuity, however, they too were not successful. When no action was taken by the respondents, a legal notice was served upon them. On receipt of the said legal notice, an amount of ₹ 62,965/- was released as gratuity to the petitioner. However, the said amount did not carry any interest thereon which has led to the filing of the instant petition.

Learned counsel for the petitioner contends that there was an inordinate delay in releasing the said gratuity and, therefore, they would be entitled to interest @ 18% per annum on the said amount. Counsel for the petitioner relies upon a judgment rendered in ***Vijay L. Mehrotra vs. State of U.P., 2000 AIR (SC) 3513*** wherein respondent authorities were directed to pay interest @ 18% per annum from the date of retirement till the date of payment where there was delay in releasing the retiral benefits

Learned counsel for the respondent-State is unable to dispute the fact that the gratuity which was due to the father of the petitioner on his retirement was released only in the year 2014. It is also not in disputed that the said amount released did not carry any interest. However the counsel submits that no interest is payable on account of delayed payment under the Payment of Gratuity Act 1972.

I have heard learned counsel for the parties and have perused the record carefully.

Admittedly, there is an inordinate delay of 14 years in releasing the amount of gratuity payable to the petitioner. In fact no reasonable explanation seems to be forthcoming as to the inordinate delay in making the payment. If there is a delay in payment of interest the employer is liable to pay interest as per the provisions of the Payment of Gratuity Act 1972. Under sub- section 3(A) of Section 7, if the amount of gratuity is not paid by the employer within the period specified in sub-section (3), he shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple interest at such rate not exceeding the rate notified by the Central Government from time to time for repayment of long term deposits; provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the controlling authority for the delayed payment on that ground. Therefore a reading of the section itself indicates that in case there is delayed payment of gratuity which delay can not be attributed to the employee then the employer is liable to pay interest.

After hearing learned counsel for the parties, this Court is of the opinion that the rate of interest as is prevalent today on fixed deposit for senior citizens is @ 7.75% per annum. In the year 2000, the rate of interest for the senior citizens was much higher and as per information available it was 10% per annum. Therefore, the rate of interest on account of delayed payment is in the instant case @ 10% per annum assessed from the date it became payable till the date of actual realization, within a period of three months from the date of receipt of a copy of this order, failing which the interest applicable will be 12% per annum. Ordered accordingly.

The petition stands disposed of.

18.01.2017 **(JAISHREE THAKUR)**
Satyawan **JUDGE**

Whether speaking/reasoned Yes.

Whether reportable No.