

CWP No. 19480 of 2017

DECIDED ON: SEPTEMBER 06, 2017

MANPHOOL BHATIA

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Dhiraj Chawla, Advocate
for the petitioner.

JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred under Article 226 of the Constitution of India, petitioner has sought the issuance of writ in the nature of mandamus directing the respondents to grant interest @ 18% on the arrears of pay of ₹5,83,827/-, leave encashment of ₹96,520/- and interest on the arrears of pension with further direction to respondents to release gratuity and provident fund along with interest @18% from October 31, 2012 till its actual payment.

2. Undisputably, services of petitioner was terminated vide order dated May 29, 1996, which was challenged by him through CWP No. 4626 of 1999 *inter-alia* claiming following relief:

“Civil Writ Petition under Articles 226/227 of the Constitution of India for the issuance of a writ in the nature of Certiorari/Mandamus or any other appropriate writ, order or direction for quashing the order the termination of services of the petitioner dated 29.05.1996 (Annexure P-11) and also the order Annexure P-13, whereby, the appeal against the order of termination has been rejected.

AND

To direct the respondents to reinstate the petitioner with all consequential benefits including the promotion from the date, his juniors were promoted.”

3. The afore-said writ petition was finally disposed of vide order dated December 09, 2015, the operative part of which reads as under:

“Consequently, the petition is accepted and the impugned orders Annexure P-11 and P-13 are set aside being totally arbitrary and based on non-sustainable material. The petitioner would be deemed to be in service. All consequential benefits be granted to the petitioner as expeditiously as possible preferably within a period of four months from the date of receipt of certified copy of the order. Petition stands allowed.”

4. Since the afore-said order dated December 09, 2015 was not complied with within stipulated period, petitioner was constrained to approach this Court by way of contempt petition i.e. COCP No. 1340 of 2016 for the implementation thereof, which was dismissed as having been rendered

infructuous vide order dated October 25, 2016. It was clearly reflected in the afore-said order that learned State counsel pointed out that all benefits have been granted to the petitioner and the order of the writ court has been complied with in letter and spirit. Finding that no cause of action survives in the contempt petition, it was dismissed as having been rendered infructuous. There is nothing in the order dated October 25, 2016 passed in contempt petition, that any benefit still remains to be paid by the respondents to petitioner in compliance of the order subject matter of the contempt petition. Thus, relief sought by petitioner through the instant petition to the effect that gratuity and provident fund be released along-with interest from the date of retirement till actual payment, is not sustainable.

5. As far as another relief with regard to the grant of interest on the delayed payments of arrears of pay and/or leave encashment is concerned, legal notice dated March 20, 2017 (Annexure P-4) has already been served upon the respondents and the matter can be disposed of without issuing notice to them just by giving direction to respondent No.2 to consider the case of petitioner with regard to grant of interest on delayed payment referred to above in the light observations made by Full Bench of this Court in case captioned as “**A.S. Randhawa vs. State of Punjab and others; 1997 (3) SCT 468** as well as subsequent judgment passed by this Court in CWP No. 8772 of 2015 titled as **Charan Dass vs. State of Punjab & others;** decided on July 11, 2017.

6. Accordingly, instant petition is disposed of with a direction to respondent No.2 to consider the claim of the petitioner with regard to interest on delayed payments in the light of afore-said judgments by passing a speaking

order. In case respondent No.2 comes to the conclusion that petitioner is entitled to the interest, to release the same within next 45 days. However, in case any cause of action still survives with regard to the interest as referred to above, petitioner shall be at liberty to approach this Court.

SEPTEMBER 06, 2017
sham

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*