

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

CWP No. 24209 of 2015

Date of Decision: 16.02.2017

MOHINDER PARTAP SINGH

.....Petitioner

VS.

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Mr. Arihant Jain, Advocate,
for the petitioner.

Ms. Vandana Malhotra, Addl. A.G., Punjab.

KULDIP SINGH, J (ORAL)

The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India praying for issuance of writ in the nature of mandamus for directing respondents No. 1 to 3 to decide the representation dated 11.08.2015 (*Annexure P-3*) for release of the retiral benefits of the petitioner alongwith interest. The prayer has also been made for issuance of writ of certiorari for setting aside the order dated 23.09.2015 (*Annexure P-5*) vide which the pay of the petitioner has been refixed and reduced w.e.f. 28.07.1995.

Brief facts of the case are that the petitioner, was appointed as Block Development and Panchayat Officer, later on promoted as District Development and Panchayat Officer and ultimately, promoted as Additional Deputy Commissioner, (Development), Tarn Taran. He retired from service on 31.03.2015. The petitioner has claimed that after retirement, his retiral benefits have not been paid to him. He further stated that vide impugned order dated 23.09.2015 (*Annexure P-5*), his pay was order to be re-fixed and

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the same was reduced w.e.f. 28.07.1995 and has claimed that the said order is illegal.

In the reply, it is stated that the payment of leave encashment amounting to ₹9,03,120/- has already been sanctioned vide order dated 24.10.2015 and that the case of the regular pension, gratuity of the petitioner has been sent to the Accountant General (A&E), Punjab. The Accountant General (A&E) in the reply has stated that on 13 01.2016, the case of the petitioner was finalized by issuing necessary authorities of certificate and report for DCRG and Pension Payment Order for pension.

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

Learned counsel for the petitioner has not denied that the leave encashment was received by him, though, it is stated that the same was received only two months back from today. Therefore, the petitioner is entitled for interest on the delayed payment of leave encashment. It is further stated that the pension has been fixed at the lower rate and that the Gratuity and GPF has not been paid at all. Further, it comes out that the order of pay fixation was passed on 23.09.2015 (*Annexure P-5*) i.e. after the expiry of six months from the date of retirement of the petitioner reducing his pay from back date w.e.f. 28.07.1995. It is not claimed by the respondents that before the passing of the said order of pay fixation of the petitioner, the petitioner was heard. Therefore, the order dated 23.09.2015 (*Annexure P-5*) vide which the pay of the petitioner was reduced w.e.f. 28.07.1995 without giving him an opportunity of being heard, is liable to be quashed.

Consequently, the order dated 23.09.2015 (*Annexure P-5*) is hereby quashed with liberty to the respondents to issue notice to the

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petitioner and give him opportunity for hearing and thereafter, pass a fresh order. In the meanwhile, the petitioner shall be entitled to interest @ 9% per annum on the delayed payment of gratuity starting from 01.07.2015 till the date of payment. The respondents are also directed to release GPF and gratuity, if not already paid, alongwith interest @ 9% per annum from 01.07.2015. The delayed payment of pension shall also carry interest 9% per annum from 01.07.2015.

In view of the above, the present petition stands allowed as per above noted observations.

February 16, 2017
Suresh Kumar

(KULDIP SINGH)
JUDGE

Whether speaking / reasoned :	✓ Yes / No
Whether Reportable :	✓ Yes / No