

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP No. 24666 of 2015

Date of decision: 24.03.2017

Dr. Surjeet Singh Toor

... Petitioner

versus

State of Punjab and others

.... Respondents

**CORAM: HON'BLE MR. JUSTICE KULDIP SINGH**

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Present: Mr. G.S. Lalli, Advocate for the petitioner.  
Mr. Nikhil K. Chopra, Addl. Advocate General, Punjab.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

**KULDIP SINGH, J. (ORAL)**

Present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus for issuance of direction/order to pay interest and penalty at the rate of 18% per annum on the late payment of pension and other retiral benefits which includes gratuity, GPF, leave encashment and GIS.

Petitioner-Dr. Surjeet Singh Toor was working as Senior Medical Officer in the Primary Health Centre, Thathi Bhai, District Moga, Punjab. He superannuated from service on 28.02.2002. It comes out that during his service, FIR No. 45 of 04.05.1999 under Section 409, 463, 468, 471, 120-B of IPC and under Section 7 (13) of the

Prevention of Corruption Act, 1988, was registered on 04.05.1999 at Police Station Kotwali, Ludhiana. The petitioner was tried by learned Special Judge/Additional Sessions Judge, Ludhiana and was ultimately acquitted on 30.11.2013 (Annexure-P11).

The grouse of the petitioner is that despite his repeated requests, the retiral benefits were not released after 28.02.2002, i.e. after retirement. He was only paid provisional pension @ 80% from 29.01.2003, 90% from 17.08.2007 and 100% from 31.11.2007. He was allotted regular pension from December 2014. The chart showing the detail of post retiral benefits is reproduced as under :

**1. Pension**

*Date of Retirement: 28.02.2002*

- a) provisional pension of 80% on 29.01.2003.*
- b) Provisional pension 90% on 17.08.2007.*
- c) from 31.11.2007 to year 2014-100%*
- d) Regular pension from December 2014*

*Arrears of pension as per*

*Pay fixation to have been done in the year 2006-Paid in*  
*March, 2004 : Rs. 6,05,098/-*

*Arrears of Pension in May 2015 : Rs. 1,28,113/-*

*Without interest.*

*Pay fixation which was due in 2006 is done in March, 2014 and May, 2015 which would have been done in the year 2006 and is paid without interest.*

**2. Pay Fixation:-**

*As per report of pay commission of year 2006, it is to be done in the year 2006, when in case of other employees, it*

*was done in year 2006, but in this case it was done in December, 2014. Without interest on late payment.*

**3. Gratuity**

*Rs. 3,50,000/- paid in March 2014,*

*Due within two months of retirement without interest.*

**4. GIS (General Insurance)**

*Rs. 58,000/- March, 2008, without interest.*

**5. Leave Encashment**

*Amount : Rs. 3,12, 660/-*

*Due on 28.02.2002 paid on 28.02.2004 (after two years without interest).*

**6. GPF**

*Amount Rs. 3,14, 047/-. Without interest*

*Paid on 04.02.2004 (After two years).*

**7. LTC**

*payable every two years is not paid till date (No interest)*

**8. Old Age Additional Amount**

*Which is 5% extra at the age of 65 years and 5% extra at the age of 70 years was only done and paid in December 2014. The petitioner completed 65 years of age on 04.02.2009 as his date of birth is 4 February, 1944 and 70 years of age on 04.02.2014.*

*Petitioner claimed interest on all the delayed payment.*

The State in the reply has taken the stand that the petitioner had embezzled an amount of ₹ 59,555/- and a corruption case in this regard was pending against the petitioner in the Court of Special Judge/Additional Sessions Judge Ludhiana, therefore, all the payments were stopped in accordance with law by the Department of Health and Family Welfare, Government of Punjab vide letter endorsed on

19.04.2002. The grant of provisional pension claimed by the petitioner is not disputed. It was stated that after the decision of the said criminal case, pension was paid in the year 2014. Payments of GPF, leave encashment were made in the year 2004, GIS was paid in the year 2008 and gratuity was paid in the year 2014. There were bona fide and valid reasons for withholding the retiral dues of the petitioner. No dues certificate was also not submitted by the petitioner in the office of Civil Surgeon, Moga. No option form i.e. 14-B for commutation of pension was submitted by the petitioner. However, there is no provision to fix the pay of retired officer w.e.f. 01.01.2006 who retired on 28.02.2002.

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

Admittedly, on account of registration of FIR, the Department can withhold the part of pension but other benefits could not be withheld. As per the provisions of Rule 9.14 (1) © of LCSR Vol II, no gratuity is payable to the government employee until the conclusion of departmental or judicial proceedings and issue of final order. But, it is also in dispute that no departmental enquiry was initiated by the respondent and consequently there was no reason to withhold the pension as well. If the Department had initiated the departmental enquiry, they could impose the cut in the pension. However, in this case, no such departmental enquiry was ever held against the petitioner. Therefore, for the delayed payment of pension,

arrears of pension, the respondents shall be liable to pay interest @ 9% starting three months from the date of retirement till the actual payment. The gratuity was paid in March 2014 i.e. within five months of the decision of the case, which is deemed reasonable as the case of retiral benefits is processed after receiving the certified copy of the order/judgment and decision of the Government. Therefore, no interest on gratuity is payable. For the delayed payment of GIS, GPF, the petitioner is also entitled to interest at the rate of 9% per annum starting three months from the date of retirement till payment. The petitioner shall also be entitled to interest on the delayed payment of old age additional amount which became due till payment.

The petition is allowed to above extent.

**(KULDIP SINGH)**  
**JUDGE**

23.03.2017

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|-------------------------------|---|-----|
| Whether speaking/non-speaking | : | Yes |
| Whether reportable            | : | No  |