

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.3373 OF 2015
DECIDED ON: OCTOBER 24, 2017

RAJ KUMAR

.....PETITIONER

VERSUS

HOUSING BOARD HARYANA AND ORS.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Sandeep Singhal, Advocate,
for the petitioner.

Mr. Gaurav Gaur, Advocate and
Mr. Akshay Bansal, Advocate for
Mr. Ashwani Talwar, Advocate,
for the respondents.

JASPAL SINGH, J

Through instant petition preferred under Article 226/227 of the Constitution of India, petitioner has sought issuance of a writ of certiorari for quashing order dated 22.12.2014 (P-11) whereby claim/legal notice has been rejected. AND FURTHER a writ of mandamus, directing the respondents to pay interest @ 18% per annum on account of delayed payment of gratuity and leave encashment and with further prayer of release one day salary of 12.12.2006 and grant of two advance increments along with arrears and interest as per Govt. instructions dated 26.09.1972.

2. Undisputably, petitioner was appointed as Junior Engineer in Housing Board, Haryana on 02.03.1985 and joined as such, on 13.03.1985.

Thereafter, he was sent on deputation to HAFED, Hisar on 30.11.2001 to 12.12.2006. During his period on deputation with HAFED, petitioner applied for the post of Sub Divisional Engineer (C) in HUDA department through proper channel and his application was forwarded to Chief Administrator, HUDA vide letter No.15362-65 dated 29.12.2005 with the condition that if selected to the post applied for, he will have to resign from his post in Housing Board, Haryana by serving one month notice as per condition No.6 of his appointment letter. The petitioner was selected for the post applied by him. He was repatriated and relieved from HAFED on 12.12.2006. At the same day i.e. 12.12.2006, he served one month notice for resignation from his services which stood accepted w.e.f. 12.12.2006. He was also directed to deposit one month salary in lieu of one month notice. In pursuance thereof, he deposited a sum of Rs.18,545/- towards one month salary and joined the HUDA-department. In response to the legal notice dated 10.11.2014 (P-10) served by petitioner, leave encashment and gratuity were though released yet no interest on delayed payment was granted. The resignation submitted by the petitioner stood accepted on 12.12.2006 and he deposited one month salary in lieu of notice period. The respondent-department has to make the retiral dues accrued to the petitioner within a period of 6 months after the acceptance of resignation, but in the case in hand, leave encashment and gratuity were released after an inordinate delay. There is no plausible explanation furnished by the respondent with regard to delay in disbursement of the amount accrued to the petitioner on account of leave encashment and gratuity. The delay in disbursement of aforesaid benefits cannot be attributed to the petitioner. Rather, it is absolutely

attributable to the respondents-department, who remained silent over the matter. Firstly, they declined the gratuity but subsequently on reconsideration of the matter, it was released. Thus, in the circumstances, petitioner deserves to be compensated by way of grant of interest.

3. This Court is of the considered view that grant of 9% interest on the delayed payment would be legally justified. Accordingly, instant petition is partly allowed and respondents are directed to pay interest @ 9% per annum after the expiry of 6 months period from the date of acceptance of resignation till actual payment.

4. Needful shall be done within a period of two months from the date of receipt of certified copy of this order. Non-compliance of order shall provide liberty to the petitioner to have recourse to the remedies available under law including to approach this Court.

OCTOBER 24, 2017
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(JASPAL SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes/No</i>