

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

Sr. No.231

Civil Writ Petition No.2777 of 2016
DECIDED ON: November 21, 2017

MEER SINGH

..PETITIONER

VERSUS

**DAKSHIN HARYANA BIJLI VITRAN NIGAM LTD. AND
ANOTHER**

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Bhim Kumar Bagri, Advocate,
for the petitioner.

Mr. Padamkant Dwivedi, Advocate,
for the respondents.

JASPAL SINGH, J.

By virtue of the instant civil writ petition, preferred under Article 226/227 of the Constitution of India, petitioner has sought the issuance of a writ in the nature of Mandamus, directing the respondents to release the revised pension of the petitioner which was fixed after counting the work-charge services followed by regular service by the petitioner the details given in para No.2 of the petition inspite of that it was counted and arrear of Rs.91,965/- was paid but the petitioner getting his pension on the basis of unrevised basic pay of Rs.3500/- instead of Rs.4480/- as fixed after count the work charge services, arrear of pension be paid with interest @ 18% per annum.

2. At the very outset of the arguments, it has been submitted by learned counsel for the petitioner that petitioner was appointed on work charge basis as T-Mate in August, 1972, thereafter his services were regularized and promoted as Assistant Lineman on July 26, 1979 and thereafter due to the injury suffered in discharging his duties on July 08, 1982, he was adjusted as Peon in the year 1992. After rendered about 37 years of service, he was retired from the office of respondent No.2 on April 30, 2009 on attaining the age of superannuation. All the benefits have already been released/disbursed to the petitioner after a considerable delay but no interest on delayed payments has been paid by the respondents.

3. As far as maintainability of a writ in the nature of mandamus for the grant of interest is concerned, by now it is pretty settled that same is legally maintainable. In this regard, we can have the reference of the pronouncement of the judgment in case ***A.S. Randhawa vs. State of Punjab & others, 1997(3) SCT 468*** as well as ***Vijay L. Mehrotra vs. State of U.P., 2000(4) SCT 267***. In case ***Vijay L. Mehrotra (supra)***, the Hon'ble Apex Court, has specifically observed that retiree is entitled to the grant of interest on the delayed payment of retiral dues. It was observed that in case of an employee retiring after having rendered service, it is expected that all the payment of the retiral benefits should be paid on the date of retirement or soon thereafter if for some unforeseen reasons or circumstances the payments could not be made on the date of retirement. Otherwise also, considering a number of cases and the procedure to be adopted, it is settled that at the most the employer is obliged to release the pensionary benefits maximum within a period of three months from the date of retirement. But in the case in hand, even the benefits accrued on account of retirement have

not been released to the petitioner within the aforesaid reasonable period of three months.

4. It is a settled principle that grant of interest on the delayed payment is on account of the fact that retiree was unable to enjoy its fruits immediately on his retirement and then a right accrues to him to be compensated and the only way to compensate him is to pay interest for the period of delayed payments. Now, a question arises as to the period in which the retiral benefits should be disbursed to the retiree.

5. It is also well settled that proper time for the disbursement of retiral benefits will depend on the facts and circumstances of each case but normally it would not exceed three months from the date of retirement which time limit has been laid down by the Apex Court in ***State of Kerala vs. M. Padmanabhan, AIR 1985 SC 356; D.D. Tewari (D) through LRs vs. Uttar Haryana Bijli Nitran Nigam Ltd., 2014(4) S.C.T. 128; A.S. Randhawa vs. State of Punjab (supra); J.S. Cheema vs. State of Haryana & others, 2014(3) RCR (Civil) 355; and Manohar Lal vs. State of Punjab & others, 2016(4) SCT 250*** as well as judgment of Madhya Pradesh High Court in case ***Sudha Chhipa & others vs. State of M.P. & others, 2014 LIC 2125***. While following the Full Bench decision in the case of ***A.S. Randhawa (supra)***, this Court in ***Amarjit Kaur vs. State of Punjab & others, 2011(1) Service Cases Today 85***, where there was delay of 16 years in payment of retiral benefits, has awarded interest @ 18% per annum on the delayed payment. Besides, Government of Haryana, Finance Department No.1/2(152) 01-2 FR II, dated February 20, 2002, has issued instructions to the effect that in cases where the delay exceeds a period of three months in settlement and payment of such retiral benefits, the same

should be paid along with interest calculated from the date of retirement till the date of payment. The issue pertaining to the admissible rate of interest in these cases has also been considered. It has been observed that the interest rate regime remains volatile and it keeps on changing from time to time in view of the economic and monetary policies in force at various points in time.

6. Taking into consideration the facts & circumstances of the case in hand, this Court is of the view that grant of interest @ 9% per annum, on the delayed payment after expiry of three months from the date of retirement till the actual payment, is legally and factually justified. Accordingly, this Court awards an interest @ 9% per annum on the delayed payment(s) w.e.f. August 01, 2009 to actual date of payment. Accordingly, respondents are directed to calculate the interest on the delayed payments within a period of three months from the date of receipt of a certified copy of this judgment and disburse the same within a period of two months thereafter. In case, Department considers the fault of any other authority, may have recourse to the remedies available under the law.

7. Disposed of accordingly.

November 21, 2017

Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No