

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-5237-2016 (O&M)
Date of decision: 07.02.2017

Ravinder Mohan Nanda

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Parveen Kumar Rohilla, Advocate for the petitioner
Mr.Keshav Gupta, AAG Haryana

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Petitioner who was working as Water Clerk with the respondent department retired from service on attaining the age of superannuation on 30.4.2007. However, a charge sheet was issued to him on 24.7.2007 on the ground of failing to discharge proper duties and committing irregularities. Regular inquiry was held in which he was found not guilty. Therefore, charge sheet was dropped on 26.8.2011. Consequently, commuted value of pension was released on 11.1.2012 and gratuity was released on 2.2.2012.

The claim of the petitioner is for interest on the delayed payment.

State in the reply, has not disputed that the payments were withheld on account of charge sheet and subsequent inquiry. The State has asserted that under the Rules, the State could withhold the leave encashment, gratuity and commuted value of pension.

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

Admittedly, pending inquiry, State could withhold the commuted value of pension and gratuity. In this case, inquiry remained pending for four years and one month.

Now, question would arise as to whether the State on the pretext of initiating inquiry after the retirement, can linger on the matter for more than four years and retain retiral benefits of the petitioner?

I find the reply in negative. In this case, in the inquiry which continued for more than 4 years, the petitioner was deprived of retiral benefits in the form of commuted value of pension and gratuity. The State did nothing to expedite the inquiry within the stipulated period of six months. The State has used the money of the petitioner. In the inquiry ultimately, it was found that the petitioner was not guilty. Therefore, for using the money of the petitioner for more than four years, the State is liable to pay the interest on the delayed payment.

Accordingly, the petition is allowed. The State is directed to pay interest @ 9% per annum on the delayed payment of commuted value of pension and gratuity starting six months after the issuance of the charge sheet i.e. 26.8.2011 till the date of actual payment.

07.02.2017*gk***(Kuldip Singh)
Judge**

Whether speaking/ reasoned:

Yes

Whether Reportable:

No