IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-929-2013 (O&M)
Date of decision: 06.02.2017

R.P. Sanghi

.....Petitioner

versus

State of Haryana and others

......Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Raj Kaushik, Advocate for the petitioner
Mr.Naveen Sheoran, DAG Haryana
Mr.D.S.Nalwa, Advocate for the respondent Nos.3 & 4

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?

<u>Kuldip Singh, J.</u> (Oral)

Petitioner, who was working in Haryana State Minor Irrigation Tubewell Corporation since 20.2.1974 was retrenched on 30.7.2002. Thereafter, as per Policy of the Government of Haryana dated 21.6.2006, he was offered appointment against the post of Accountant and a fresh appointment letter dated 6.10.2006 (Annexure P1) was issued. Petitioner accordingly joined the service and superannuated from the respondent department on 31.5.2011. It is not denied by the respondents that all the Government instructions are applicable to the respondent-department. The claim of the petitioner is for grant of retiral benefits i.e. DCRG and leave encashment for the period by him served under the respondent department. The respondents have denied both the claims stating that he had already availed 300 days leave encashment from the HMITC and that the DCRG is not payable to the petitioner since his service is less than five years.

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

The instructions of the Government (Annexure P5) clarifies that the employees who have less than 5 years service on the date of reemployment will be governed by provisions of Punjab CSR Volume II. A chart (Annexure P6) is also given as given in Punjab Civil Services Rules Volume II, which is applicable to the respondents, under which, in case of service between 4 and 5 years, 2 and 2 ½ months emoluments respectively are to be paid as gratuity.

Respondents have relied upon Rule 6.16A of the Punjab Civil Services Rules Volume II, Chapter 6, which is applicable to the case of the additional gratuity and not towards payment of gratuity. Therefore, it is held that the petitioner is entitled to 2 ½ months emoluments as gratuity. The respondents are directed to release the same to the petitioner along with interest @ 9% per annum starting three months from the date of retirement of the petitioner till the date of payment.

Now coming to the claim of leave encashment. It comes out that the petitioner while being retrenched from HMITC had already availed 300 days leave encashment as is clear from letter Annexure R3/1. Instructions of the Government (Annexure P13) relied upon by the petitioner himself regarding leave encashment of unutilized earned leave goes to show that in case of absorption of the government servant in Central Public Sector Undertaking/ Autonomous body wholly or substantially owned or controlled by the Central/ State Government, the said instructions are applicable. As per instructions maximum of 300 days leave encashment is payable. Petitioner had already received the maximum 300 days encashment from his previous department before his absorption in the respondent-department. Therefore, no additional leave encashment is payable to the petitioner.

The petition is accordingly partly allowed to the above noted extent.

06.02.2017 **(Kuldip Singh)**
gk **Judge**

Whether speaking/ reasoned: Yes
Whether Reportable: No