

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

Sr. No.212

**Civil Writ Petition No.22192 of 2015
DECIDED ON: February 27, 2018**

PARAMJIT KAUR

..PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Dr. Jagdeep Jaswal, Advocate,
for the petitioner.

Ms. Deepali Puri, Additional Advocate General, Punjab.

JASPAL SINGH, J. (ORAL)

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 particularly in the nature of certiorari seeking the quashing of impugned order dated November 06, 2013 (P-1) (wrongly typed as P-3 in the Head Note) as well as quashing of reply dated June 24, 2015 (P-4) passed by the Principal Accountant General (A&E), Punjab, Sector 17, Chandigarh-respondent No.4 with further issuance of a writ in

the nature of mandamus directing the respondents to grant the interest on the delayed payments of the retiral benefits as well as refund an amount of Rs.1,03,283/- recovered in pursuance of the order dated November 06, 2013 (P-1).

2. During the course of arguments, it has emerged that on the intervention of this Court, vide order dated October 15, 2015, an amount of Rs.1,03,283/- was refunded to the petitioner in the month of March, 2016. Now, the question which survives for determination with regard to grant of interest on the delayed payments of the retiral dues as well as on the amount which was illegally deducted by the respondents on account of letter dated November 06, 2013 (P-1) till it was refunded.

3. Here it would be pertinent to mention that petitioner stood retired on August 31, 2013, the retiral dues were not disbursed to the petitioner on the date of her retirement or within reasonable period of three months. But subsequent thereto, even an amount of Rs.1,03,283/- was also wrongly and illeglly deducted. In fact, a close scrutiny of the documents available on file reveals that vide letter dated September 23, 2013 (P-5), the Block Primary Education Officer, Kharar-III, Mohali suggested that some excess amount has been paid to the petitioner by wrongly granting the increment and re-fixation of the pay. But there was no observation with regard to recovery of the said amount either by the respondents No.1 to 3 or on their behalf. But when the aforesaid letter dated September 23, 2013 (P-5) was received in the O/o Principal Accountant General (A&E), Punjab, Sector 17, Chandigarh and was dealt with, the Senior Accounts Officer vide letter dated November 06, 2013 (P-1) ordered that before making the payment of DCRG, an amount of Rs.95,776/- + Rs.7507/- be recovered

from the petitioner and it was only in pursuance thereof, an amount of Rs.1,03,283/- which was subsequently refunded to the petitioner was deducted from the amount of Gratuity. The deduction of the amount of the alleged excess amount paid to the petitioner is absolutely violative of the law laid down in case *State of Punjab & ors. vs. Rafiq Masih (White Washer) etc., 2015 (2) SCC (Civil) 608* as well as Instructions No.1/15/90IFPIII/4226 dated 10.05.1990, which have been issued by the Government of Punjab. In pursuance of *Rafiq masih's case (Supra)*, such an action on the part of the officer concerned is to be deprecated as it amounts to act over and above the law laid down by the Hon'ble Apex Court.

4. As regards the grant of interest on the delayed payments, undoubtedly, the retiral benefits have not been released either on the date of retirement of the petitioner or within some reasonable period of three months from the date of her retirement and on account of this fact, petitioner was deprived of its proper use. There was no fault on the part of the petitioner. Rather, non-disbursement of the retiral benefits within the aforesaid period is on account of fault on the part of the respondents for the delay in making the payment, the petitioner deserves to be compensated by way of grant of interest on the delayed payments.

5. In view of settled proposition of law with regard to grant of interest, petitioner is entitled to 9% interest per annum on the delayed payments of the retiral benefits as well as for the period on which the amount of gratuity became due and actually refunded to the petitioner, which shall be calculated and make the payment thereof, after the expiry of three months from the date of retirement of the petitioner till actual

payment. The needful shall be done within a period of two months from the date of receipt of a certified copy of this order. In case of non compliance of this order, petitioner shall be at liberty to approach this Court.

February 27, 2018
Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No