

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.15972 of 2018

DATE OF DECISION: JULY 5, 2018

KULWANT SINGH

...PETITIONER

VERSUS

PUNJAB STATE FEDERATION OF CO-OPERATIVE ...RESPONDENT
SUGAR MILLS LIMITED

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH.

PRESENT: MR. JASPAL SINGH GURU, ADVOCATE
FOR THE PETITIONER.

JASPAL SINGH, J. (ORAL)

1. By virtue of the instant writ petition filed under Article 226 of the Constitution of India, the petitioner has sought issuance of a writ in the nature of mandamus directing the respondents to release his withheld retiral benefits alongwith interest @ 12% per annum.

2. Concededly, the petitioner has retired as General Manager of Gurdaspur Co-operative Sugar Mills Ltd. (for short 'Sugar Mills') on 30.4.2008. However, subsequent thereto, an award dated 19.5.2009 was passed against him and some other officers whereby a sum of ₹6,17,772/- was shown to be recoverable from them in equal shares. Aggrieved against the said order dated 19.5.2009, the petitioner preferred an appeal before the Joint Registrar, Co-operative Societies, Jalandhar Division and vide order dated 29.11.2010 (Annexure P-2), the appeal was accepted and the award dated 19.5.2009 was set aside and the petitioner was exonerated. Subsequent thereto, the Sugar Mills preferred revision petition against the

order dated 29.11.2010 passed by the appellate Authority, but that revision petition was dismissed vide order dated 20.10.2016 (Annexure P-3). Thereafter, the Sugar Mills approached this Court by way of filing CWP No.26610 of 2016 and the said writ petition is still pending disposal before this Court and is stated to be listed for 8.10.2018. Though notice of motion was issued in the aforesaid petition, yet, no interim stay/order was granted by this Court staying the operation of order dated 29.11.2010 passed by the appellate Authority. It is also pertinent to mention here that for the reasons best known to the Sugar Mills the present respondent, i.e. Punjab State Federation of Co-operative Sugar Mills Ltd. has not been impleaded as a party.

3. Undoubtedly, the petitioner stood retired on 30.4.2008 and the award dated 19.5.2009 passed by the Managing Director has already been set aside by way of acceptance of appeal by the appellate Authority vide order dated 29.11.2010 and further that there is no stay granted in CWP No.26610 of 2016 already filed by Sugar Mills. Mere pendency of the writ petition does not *ipso facto* mean that operation of the order dated 29.11.2010 (Annexure P-2) has been stayed. Rather, the respondent was to act upon the orders already appearing against it and to release the benefits accrued to the petitioner on account of his retirement.

4. At this juncture, learned counsel for the petitioner has submitted that constrained against the inaction of the respondent-Sugar Mills, the petitioner served legal notice dated 14.5.2018 (Annexure P-8) upon the respondent. Despite the fact that a period of approximately 2

months is going to expire, neither any action has been taken nor the benefits have been released to the petitioner and he feels satisfied in a case a direction is issued to the respondent to consider the claim put forth by the petitioner in his legal notice and to take conscious decision within some stipulated period.

5. Without expressing any opinion on the merits of the case, but considering the aforesaid aspects, the instant petition is disposed of with a direction to the respondent to consider the various aspects unfolded by the petitioner in his legal notice dated 14.5.2018 and to take a conscious decision within a period of 3 months from the date of receipt of certified of this order with a further direction that in case the respondent comes to a conclusion that there is no impediment, legal or otherwise, to calculate and release the benefits within 45 days, grant of interest on delayed payments in the light of the Instructions bearing No.1/15/90IFPIII/4226 dated 10.5.1990, issued by the State of Punjab shall also be considered by the Authorities concerned. If at all, any order is passed averse to the interest of the petitioner, he shall be at liberty to have recourse to the remedies available under the law as well as to approach this Court.

July 5, 2018
Gulati

(JASPAL SINGH)
JUDGE

Whether Reportable : Yes

Whether Speaking/Reasoned : Yes/No