

**CWP No.23653 of 2014
DECIDED ON: AUGUST 06, 2018**

M.L. VERMA

.....PETITIONER

VERSUS

STATE OF HARYANA ETC.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Johan Kumar, Advocate
for the petitioner.

Mr. Charanjit Singh Bakshi, Addl. AG, Haryana.

Mr. Yogesh Saini, Advocate for
Mr. R.C. Tacoria, Advocate
for respondent No.2.

Mr. Sudhanshu Makkar, Advocate
for respondents No.5 and 6.

JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred under Articles 226/227 of the Constitution of India, petitioner has sought a writ in the nature certiorari for quashing the order dated 17.07.2014 (P-4) passed by respondent No.3 whereby, his claim for the grant of interest on the delayed payment of retiral benefits as well as claim for the grant of leave encashment has been declined with further prayer for issuance of a direction in the nature of mandamus directing the respondents to pay interest @ 18% per annum on the delayed payment of his

retiral benefits and also to pay amount of leave encashment of 200 days and interest thereon.

2. After the issuance of notice of motion on 30.05.2017, following order was passed:-

“ Petitioner was appointed as a Lecturer in Physics with respondent no.5 GGDS College, Palwal and retired as Associate Professor on 30.6.2012. Petitioner claims that his retiral benefits were not released. Therefore, he approached this Court by way of filing of CWP no.14283 of 2013 which was disposed of vide order dated 2.4.2014 (Annexure P2) with liberty to the petitioner to make a representation regarding payment of interest on the delayed payment and other retiral benefits. Respondents have passed order dated 17.7.2014 (Annexure P4), whereby claim of the petitioner for the interest on the delayed payment along with the claim of leave encashment has been declined.

Respondent nos.1, 3 and 4 in the written statement have taken the plea that a sum of Rs.17,880/- was recovered from the petitioner. It was deposited by the petitioner only on 9.5.2013. Pension papers were also not complete. Therefore, as soon as these were completed, the payments will be released.

Respondent nos.5 and 6 in the written statement have taken a plea that the necessary papers were submitted to the government within six months before the date of retirement of the petitioner. It was also stated that the petitioner is not entitled to leave encashment. Reference was also made to the affidavit dated 20.12.2011 (Annexure R5/4), whereby the petitioner had stated that he will not claim commutation of pension and leave encashment.

I have heard learned counsel for both the parties and have also carefully perused the record.

So far as grant of leave encashment to the petitioner by government aided privately managed Colleges is concerned, the

legal issue was considered by this Court in Dr.K.L.Johar and others vs. State of Haryana and others (CWP No.12179 of 2011) decided on 10.11.2016. However, learned counsel for respondent nos.5 and 6 states that the Rules of Haryana Affiliated Colleges Rules of 2002 were not considered in the said judgment, under which the leave encashment is not payable. He seeks time to address arguments.

However, regarding the delayed payment, if at all, the payment of Rs.17,880/- was due, the State could withhold the said amount and release the remaining. However, according to the petitioner, gratuity of Rs.8 lacs was released on 27.10.2013, remaining gratuity of Rs.2 lacs was released on 23.12.2013 and arrears of pension were released on 31.10.2013. Therefore, starting three months from the date of retirement of the petitioner, the petitioner shall be entitled to interest @ 9% per annum on the delayed payment of gratuity, balance gratuity as well as arrears of pension. The same be accordingly paid to the petitioner within a period of two months from today.

Regarding leave encashment and consideration of Rules of 2012, list for arguments on 8.9.2017”.

3. A glance at the afore-said order makes it crystal clear that except the relief for the grant of leave encashment all other retiral benefits claimed through the instant petition were ordered to be settled. Subsequent thereto, the payment has already been released/disbursed to the petitioner that too, along-with interest @ 9% per annum on the delayed payments of gratuity as well as other retiral benefits.

5. As far as the grant of leave encashment is concerned no leave encashment is admissible to the retired employees of the Govt. Aided Colleges, as is evident from the letter dated 19.01.2018. There is specific provision under

Note of Rule 19 (2) of the Haryana Affiliated Colleges Leave Rules, 2002 (for short 'Rules 2002') in this regard. Thus, the relief claimed by the petitioner with regard to leave encashment stands dismissed.

6. Accordingly, the instant petition qua the relief with regard to the grant of interest @9% per annum on the delayed payment of gratuity, balance gratuity as well as arrears of pension is concerned, has been rendered infructuos and is dismissed as such. As far as the relief for the grant of leave encashment is concerned, instant petition stands dismissed.

AUGUST 06, 2018
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned ***Yes/No***
Whether reportable ***Yes/No***