

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

CWP No.4541 of 2014

DECIDED ON: SEPTEMBER 21, 2018

ARUNA AGGARWAL

..PETITIONER..

VERSUS

STATE OF HARYANA AND ORS.

..RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Vivek Aggarwal, Advocate,
for the petitioner.

Mr. C.S. Bakshi, Additional Advocate General, Haryana.

None for the private respondents.

JASPAL SINGH, J.(Oral)

By virtue of instant writ petition preferred under Article 226/227 of the Constitution of India, petitioner has sought issuance of a writ especially in the nature of mandamus, directing respondents to release the retiral benefits along with interest @ 9% p.a. due from the date of retirement till realization. And further to pay arrears of salary, on account of sixth pay fixation w.e.f. 01.01.2006 to 31.01.2011 amounting to Rs.3,30,522/- along with interest @ 18% p.a.

2. At the very outset of the arguments, it has been submitted by learned counsel for the petitioner that the retiral benefits and arrears of salary have already been released to the petitioner in pursuance of order dated 26.05.2014 passed by this Court. However, no interest on the delayed payment has so far been released/disbursed to the petitioner by the

respondents. He further submits that the petitioner stood retired as Hindi Teacher from SA Jain Girls Senior Secondary School, Ambala City. The payments of retiral benefits were not paid on the date of her retirement. Rather, the same were paid subsequently, that too, with the interevent of this Court. No fault can be attributed on the part of the petitioner for the delay in the disbursement of the retiral benefits to her. In fact, the entire responsibility and liability lies with the respondents for causing delay in disbursement of the retiral benefits.

3. On the other hand, learned State counsel has submitted that the delay in disbursement of the retiral benefits to the petitioner has occurred on account of the reasons that there was no entry regarding the probation period of the petitioner in her service book. Secondly, there was no option regarding the benefit of probationary period. Thirdly, “No Dues” and “No Complaint” certificates were also not attached with the application form.

4. After considering the rival submissions made by learned counsel for the parties, this Court does not find any legal and factual substance in the various submissions made by learned State counsel referred to above. The lapse or omission on the part of the official respondent with regard to the non-incorporation of probation period in service book or with regard to option regarding the benefit of probationary period or that no dues and complaint certificates were not annexed with the application form does not *ipso facto* mean that the delay is legally and factually justified. The respondents were bound to make the payment of the retiral benefits either on the date of retirement of the petitioner or subsequent thereto, after the expiry of three months from the date of retirement but in the instant case, the payments were made after an inordinate delay, that too, in pursuance of order dated 26.05.2014, passed by this Court.

5. Accordingly, instant petition is disposed of with the direction to respondent to calculate and make the interest @ 9% per annum on the delayed payments, after expiry of three months from the date of retirement till the actual date(s) the various payments of the retiral benefits were made, within a period of two months from the date of receipt of a certified copy of this order. In case of non-compliance of aforesaid direction, the petitioner shall be at liberty to have recourse to the other remedies available to her as well as to approach this Court.

SEPTEMBER 21, 2018
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No