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

(225) **CWP-13750-2016**
Date of Decision: July 11, 2019

Balwan Singh **.. Petitioner**

Versus

HUDA and others **.. Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K. Malik, Senior Advocate, with
Mr. Sandeep K. Rana, Advocate, for the petitioner.

Mr. Arvind Seth, Advocate, for respondent No.1.

Ms. Safia Gupta, AAG, Haryana, for respondents No. 2 and 3.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the grievance which is being raised by the petitioner is that the petitioner be released the retiral benefits after considering his qualifying service from 03.02.1982 till 31.01.2016, the date on which the petitioner had retired.

Keeping in view various orders, which have been passed in the present writ petition, there was a dispute between respondent No.1 and the Government as to who is liable to pay the retiral benefits of the petitioner. Ultimately, the said dispute was resolved and it was decided that the Department of Irrigation Haryana will release all the pensionary benefits of the petitioner. When the case was taken up on 29.05.2019, the following order was passed:-

> *"In the present writ petition, the claim of the petitioner is for release of the pensionary benefits in respect of the service which he had rendered with respondents-departments.*

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The dispute is between the two departments i.e. Department of Haryana Urban Development Authority and Department of Irrigation & Water Resources as to which department has to release the pensionary benefits. When the case was taken up on 19.03.2019, following order was passed:-

"In compliance of the order dated 21.01.2019, a short affidavit of Birender Singh, Engineer-in-Chief, Irrigation & Water Resources Department, Haryana has been filed in Court today. The same is taken on record.

As per the said affidavit, respondents have decided that the petitioner will be treated as retired from the office of the Department of Irrigation and Water Resources, which department will be paying the retiral dues of the petitioner. It has been mentioned that the process of releasing of the pensionary benefits is to be processed by the Irrigation Department and the payment will be made accordingly by the said Department. No time frame has been given by the respondents in the affidavit, by which time the case of the petitioner for processing of release of the retiral benefits will be completed.

In the present case, the petitioner retired from service on 31.01.2016 and more than three years have already been elapsed.

Learned counsel for the petitioner states that respondents be directed to process the case expeditiously and grant the benefits to the petitioner for which he is entitled for after attaining the age of superannuation.

Learned counsel for the respondents very fairly states that the process of grant of retiral benefits to the petitioner will be completed within a period of two months from today and all the benefits for which the

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2019.07.17 12:44
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petitioner is entitled for on his retirement, will be released to the petitioner within the said period including the grant of interest keeping in view the settled principle of law settled by the Full Bench of this Court in A.S. Randhawa Vs. State of Punjab, 1997 (3) SCT 468.

Let compliance report with regard to release of the pensionary benefits to the petitioner as undertaken by the respondents be placed on record on the next date of hearing.

Adjourned to 29.05.2019."

A bare perusal of the above order would show that on the last date of hearing, it was decided between the respondents that petitioner will be treated to have been retired from the Department of Irrigation & Water Resources, who will be paying the retiral benefits of the petitioner. Case was only adjourned so that the formalities for release of the benefit be completed meanwhile.

Today, when the case is taken up for hearing, there is a dispute between the two departments that there is no co-operation being extended by one department to the other, due to which the benefits for which the petitioner is entitled, could not be quantified and released. Both the departments are blaming each other for non-release of the pensionary benefits of the petitioner.

The actual sufferer in this case is the petitioner, who despite rendering service with the respondents, is still waiting for release of the pensionary benefits, which are being withheld due to the dispute between the two departments.

Keeping in view the arguments being addressed today, it is clear that somebody needs to guide the two departments in a right perspective so that petitioner,

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2019.07.17 12:44
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who is aggrieved of not being released his pensionary benefits, can be granted the benefits for which he is entitled, after his retirement.

Learned Advocate General, Haryana, who has come present in Court, assures that Chief Secretary, Government of Haryana, will look into the matter and solve the same in a manner that petitioner receives his pensionary benefits without any further delay. He seeks a short adjournment so as to file an affidavit to the effect that benefits for which the petitioner is entitled, have been released by the department concerned before the next date of hearing.

Adjourned to 11.07.2019."

Today, an affidavit of Sh. Birender Singh, Engineer-in-Chief, Irrigation and Water Resources Department, Haryana, has been filed. In the affidavit, it has been mentioned that all the benefits for which the petitioner was entitled for, have already been released along with interest. The relevant paragraph of the affidavit is as under:-

" *That in compliance with the directions of the Hon'ble High Court, the retiral dues of the petitioner have been released as per detail given below:*

(i) The payment of unutilized 300 days earned leave (Leave Encashment) amounting to Rs.8,61,881/- has been released vide Invoice No.1600183319068351 dated 19.06.2019 (Annexure R-1) by the office of the deponent through the Executive Engineer, Water Services Division, Panchkula directly to the petitioner. It is worth mentioning here that inadvertently, while computing the amount of leave encashment on basic pay Rs.74300/- per month as on 31.01.2016, the dearness allowance was worked out amounting to Rs.1,18,881/- at the rate of 16% per month for 300 days. Whereas, no dearness allowance was granted by the Government of Haryana to its employees during the

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2019.07.17 12:44
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period commencing from 01.01.2016 to 30.06.2016 and thus the excess amount of dearness allowance paid to the petitioner as part of leave encashment. Hence, an amount Rs.1,18,881/- calculated at the rate Rs.16% as dearness allowance on Rs.7,43,000/- has become recoverable/adjustable from the payment of the petitioner. Accordingly the same has been adjusted from the payment of interest on delayed payment of retiral dues of the petitioner.

(ii) The Treasury Officer, Panchkula has been authorized vide authority letter No. Pen2H/120924993242993/4/P/19/10/251885 dated 27.06.2019 issued by the Accountant General (A&E), Haryana under approval NO.1019303884 even dated (Annexure R-2) for making payment of pension Rs.37150/- per month after adjusting the part amount of commuted pension directly to the petitioner.

(iii) For the payment amounting to Rs.12,25,950/- of DCRG, the Treasury Officer, Panchkula has been authorized by the Accountant General (Accounts and Entitlement), Haryana vide authority letter No. Pen2H/1219242993242993/4/P/19/10/251885 dated 27.06.2019 (Annexure R-3) for making payment directly to the petitioner.

(iv) For the payment amounting to Rs.14,92,717/- on account of Commutation of pension, the Treasury Officer, Panchkula has been authorized by the Accountant General (Accounts & Entitlement), Haryana vide authority letter No. Pen2H/1319242993242993/4/P/19/10/251885 dated 27.06.2019 (Annexure R-4) for making payment directly to the petitioner.

The reduced pension Rs.22,290/- after adjusting the amount of commutation of Rs.14,860/- (40% part of basic pension of Rs.37,150/-) have to be paid regularly, by the Treasury Officer, Panchkula directly to the petitioner.

HARSHA RANI
2019.07.17 12:44
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(v) That it is further submitted that the payment of General Provident Fund amounting Rs. Rs.7,36,768/- and amount of General Scheme of Life Insurance against Master policy No.310181 is being released by the office of the Chief Administrator, Haryana Shehri Vikas Pradhikaran, Sector-6, Panchkula as intimated by them vide their office Memo NO.EA-7-2019/04258 dated 13.06.2019 (Annexure R-5).

3. That it is further submitted that an amount of Rs.12,99,403/- on delayed payment of above stated amounts of retiral dues i.e. Leave Encashment, death-cum-retirement gratuity and commutation of pension has been calculated at the rate of Rs.12% per annum for the period from 01.02.2016 to 19.06.2019 and 01.02.2016 to 02.07.2019, duly verified by the Accounts Officer, IWRD, Hisar. The sanction for payment of interest on the delayed payment of retiral dues in favour of the petitioner on amount of Rs.34,61,667/- (7,43,000+ 12,25,950/-+ 14,92,717 respectively) has been issued by the Government vide No.45/22/2019-31W dated 09.07.2019 and payment has been made vide pay order No.1600188564 dated 10.07.2019 (Annexure R-6)."

Learned senior counsel appearing on behalf of the petitioner, keeping in view the instructions so received from the petitioner, who is also present in the Court, states that though an order has been passed granting the benefits to the petitioner but the same are yet to be credited in the account of the petitioner. Further, learned senior counsel for the petitioner states that benefits for certain period of service, for which the petitioner remained under suspension, has not been granted and therefore, petitioner be given liberty to approach the respondents by filing appropriate representation with regard to the said claim.

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Learned counsel for the respondents very fairly states that in case, any representation is received from the petitioner claiming any benefit, the same will be considered on merits by respondent No.2 and an appropriate speaking order will be passed within a period of three months from the receipt of the said representation. Counsel for the respondents further states that amount, in case not already credited in the account of the petitioner, will be credited shortly.

Keeping in view the above, learned senior counsel appearing on behalf of the petitioner states that no further orders are required to be passed in the present writ petition and petitioner does not wish to press this writ petition any further, at this stage.

Disposed of as having been not pressed.

(HARSIMRAN SINGH SETHI)
JUDGE

July 11, 2019
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No

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