

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

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CWP-17620-2016

Date of decision: 04.04.2019

Rajesh Kumar

....Petitioner

Versus

Union of India & others

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.M.S.Dhami, Advocate, for the petitioner.

Mr.R.S.Sihag, Advocate, for the respondents.

G.S. SANDHAWALIA, J. (Oral)

Petitioner seeks writ in the nature of Mandamus, directing the respondents to grant and release the retiral benefits w.e.f. 01.12.2014 along with interest @ 18% per annum.

It is not disputed that the retiral benefits had been released on 23.09.2016. The only issue which remains is whether on account of fault of the petitioner, the respondents are liable to pay interest on account of delay for the intervening period, which counsel for the petitioner has argued.

The defence of the respondents, as such, is that prior to retirement of the petitioner on 30.11.2014, an application from the wife of the petitioner was received on 19.09.2014 that the pension papers have been prepared fraudulently and she had not signed on any documents. The grouse of the spouse was that the husband was not giving any money for her and her children. It is also a matter of record that she had also filed a petition for maintenance under Section 24 of the Hindu Marriage Act, 1955, in which case, maintenance was fixed @ Rs.5000/- per month, as *pendente lite* vide order dated 21.03.2016 (Annexure P-5). The respondents had immediately written on 15.12.2014, to give a recent joint photograph of the petitioner and his wife along with full signatures and attested by Gazetted officer etc. (Annexure R-2). Similarly, communication dated 03.01.2015 (Annexure P-1) was also made for necessary compliance. Petitioner, vide letter dated 18.01.2015 (Annexure P-2) submitted that he had a dispute with his wife and he was living apart and could not get the duly signed form.

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Thereafter, legal notice dated 06.01.2016 (Annexure P-3) was served that the relationship between husband and wife was bitter and there was no possibility of completing the formalities. Accordingly, vide communication dated 16.01.2016 (Annexure P-4), respondents wrote that the Service Book was with the Unit and appropriate action be taken, while replying to the notice issued by the counsel. Pension Payment Order was only prepared on 10.08.2016, which has been appended in the response filed by the respondents. Same was forwarded on 23.09.2016 (Annexure R-3). Same had been returned by the Post Office and eventually vide communication dated 24.10.2016, petitioner was asked to liaison with the Branch Manager at Hoshiarpur.

It is, thus, apparent that the respondents, as such, have slept on the issue after 16.01.2016, inspite of receiving the legal notice dated 06.01.2016 and resultantly, the present petition is allowed. The petitioner would be entitled for the benefit of interest from 01.02.2016 to 30.09.2016 @ 9% per annum, on account of the delayed payment of retiral benefits, in view of the judgment passed by the Apex Court in **D.D.Tewari (D) th. LR Vs. Uttar Haryana Bijli Vitran Nigam Ltd. (2014) 8 SCC 894**. The said amount be paid within a period of 2 months from the receipt of the certified copy of this order.

04.04.2019

Sailesh

(G.S. SANDHAWALIA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No