HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP No.19492 of 2016
Date of Decision: 23.07.2019

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Charanjit Singh ... Petitioner

VS.

Zonal Manager (North) FCI & Ors. ... Respondents

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

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Present: Mr. PS Thiara, Advocate for the petitioner

Mr. Ish Puneet Singh, Advocate for the respondents

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G.S. SANDHAWALIA, J. (Oral)

The petitioner under Articles 226/227 of the Constitution of India seeks release of benefit of balance amount of Gratuity of Rs.20,680/- and leave encashment along with interest 12% per annum.

The facts in a narrow compass are that the petitioner joined respondent No.1 as Technical Gr-III on 14.08.1987 and thereafter earned promotions to make it to the post of Technical Gr.-I. His name was struck off from the rolls of the Corporation on account of the fact that he had gone to Canada without obtaining prior permission from the competent authority and absented himself from duty w.e.f. 01.02.2010. Resultantly, fresh notices as such were issued and on account of not coming back and having abandoned the services of the Corporation his name was struck off from the rolls of the Corporation with immediate effect vide order dated 10/13-12-2010 passed by the General Manager of the Corporation under Regulation 63(ii) of the FCI (Staff) Regulation 1971.

The petitioner thereafter started representing for his retiral dues in as much as he filed various representations on 11.04.2011, 05.12.2011, 10.05.2012, 28.08.2012 and 13.03.2013 claiming release of Gratuity, leave encashment and other dues and thereafter even served legal notice dated 30.08.2013 (P6) upon the respondent. But having failed to get any response, he approached this Court by way of filing CWP No.9463 of 2014 wherein directions were issued on 16.05.2014 (P7) to dispose of the legal notice. Eventually an order was passed by the General Manager (Region) on 07.07.2014 (P8) that CPF payment of the petitioner has been released on 14/24.01.2013 and clarification had been sought for release of payment of DCRG and leave encashment/HPL by District Officer, Sangrur. Thereafter an office order was passed on 08/11.08.2014 (P9) by the Manager (Admn.) sanctioning an amount of Rs.2,35,886/- as Gratuity subject to adjustment for making payments against vigilance penalty and any other outstanding amounts etc. Again thereafter the petitioner represented on 20.08.2014 (P10) and 20.02.2015 (P11) claiming payment of Gratuity EL/HPL along with interest @ 12% from the date the amount became due i.e. 13.12.2010.

In the meantime the respondents also wrote on 05.09.2014 (R1) that the photocopy of the bank passbook be submitted so that payment can be credited in his Bank account. Similar reminders were issued on 16.03.2015 (R2) and 16/17.04.2015 (R3). Resultantly, letter dated 23.02.2016 (R4) was received by the respondents giving the details of the account number of Punjab and Sind Bank, Faridkot for release of payments. Thus a sum of Rs.2,15,206/- was credited in the account of the petitioner on 03.03.2016 after deduction of Rs.87,615/-.

Thus it is apparent that for the period from 05.09.2014 to 03.03.2016 the petitioner cannot claim any interest on account of the fact that he himself was in remiss in not providing the Bank account details and the Corporation was asking him time and again. However the fact remains that total outstanding amount which were due and payable were sum of Rs.3,02,821/- as per the details given the written statement which read as under:-

Sr.No.	**Particulars**	**Amount**	**Order No. & Date**
1.	DCRG	Rs.2,35,886.00	A/1(4502)/07/6631 dated 08/11.08.2014
2.	Leave Encashment	Rs.60,866.00	A/1(4502)/07/7402 dated 21/26.08.2014
3.	CPF Interest year 2012-13	Rs.6,069.00	MS No.28 dated 01.09.2013
	Total	Rs.3,02,821.00	

The respondents instead of paying the full amount as such as noticed deducted a sum of Rs.87,615/- since an amount of Rs.69,030/- was payable on account of publication of press notices and Rs.18,585/- on account of contribution to the Medical Health Scheme i.e. totaling to Rs.87,615/-. The said amount was sought to be justified as such vide communication dated 08/21.09.2016 regarding publication of advertisement for which expenses was incurred. Admittedly no notice as such was issued for recovery of the said amount and neither any competent authority is stated to have passed any order as per the averments in the replication. Nothing has been placed on record by the Corporation as such to rebut the same. Apparently, it is clear that Rs.87,615/- has been deducted without following the proper procedure and the amount has been retained without calling upon the petitioner as such.

However, this Court cannot close its eyes that the petitioner remained abroad and therefore there was difficulty in communicating with him and the respondents could not deposit the retiral benefits in the absence of any bank account details having been furnished by the petitioner nor issue any show cause to him. This Court is thus of the opinion that in such circumstances the respondents would issue show cause notice to the petitioner and pass an order as to why the amount should not be deducted on account of the expenses which have been incurred for publication. Necessary orders in accordance with the relevant provisions thereafter be passed within a period of *two months* from the date of receipt of certified copy of this order in accordance with law.

Regarding the issue of payment of interest on the retiral benefits as such which have been released to the petitioner to the tune of Rs.2,15,206/- it is apparent that the petitioner was clamouring from 11.04.2011 (P2) for his right. He even approached this Court at an earlier point of time and sought a direction. Thereafter the order dated 07.07.2014 (P8) also does not redress the issue in principle. It is only on 08/11.08.2014 that the amount of Gratuity was quantified and as noticed paid eventually on 03.03.2016 (P12). The respondents are thus liable to pay interest on the delayed payments of Rs.2,15,206/- in view of the judgment of the Full Bench in **AS Randhawa vs. State of Punjab 1997 (3) SCT 468**. The relevant portion reads as under:-

> *"17. Before concluding we are constrained to observe that it has been noticed that invariably in the matter of payment of pension and other retiral benefits to a retiring employee there have been delays and sometimes to an extent that is shocking. It must be realised by the concerned functionaries of the State at all levels that for a government servant, the only source of his subsistence after retirement is his pension and other retiral benefits and if they are not made available to him on time, he and his family are put under great mental tension making it difficult for them even to survive. Those dealing with the preparation of pension cases at different stages and with disbursement of retiral benefits must not forget that they too have to retire one day and will be looking up for the payment of*

> *those benefits and how will they feel if they are driven from pillar to post to get their dues and if hurdles are put and delay is caused in payment thereof. It is to save this harassment to the retired that the Rules require that the procedure to compute pension and retiral benefits should commence two years before the date of superannuation so that whatever be the apathy or the inefficiency of the concerned officials in working out the amounts, they will be able to complete the cases atleast in two years and pay the dues to the retirers. If in spite of these safeguards as provided in the Rules the working of the administrative officers at different levels high or low is so indifferent in the performance of their duties as enjoined on them it is but fair that those responsible for causing delays in the matter of payment of retiral benefits should be made personally liable for the payment of interest that may have to be paid to the retiring employee. The loss caused to the State exchequer by avoidable payment of interest must, therefore, be replenished by recovering the same from the erring officers/employees, the extent and proportion of which will be determined in each case by the Chief Secretary of the State."*

Accordingly, this Court is of the opinion that interest @ 9% has become payable to the petitioner on account of inordinate delay in releasing his retiral benefits. The interest element of Rs.2,15,206/- thus be worked out within two months from today excluding the period from 05.09.2014 to 03.03.2016 and the interest shall be payable w.e.f. 11.04.2011 to 04.09.2014 @ 9% p.a. Let necessary payments be made within three months from the date of receipt of certified copy of this order.

The writ petition stands disposed of accordingly.

23.07.2019 **(G.S. Sandhawalia)**
vvishal **Judge**

1. Whether speaking/reasoned? ***Yes/No***
2. Whether reportable? *Yes/No*