HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP No.23152 of 2015
Date of Decision: 26.08.2019

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Satish Kumar ... Petitioner

VS.

State of UT Chandigarh & Anr. ... Respondents

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

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Present: Mr. BB Bagga, Advocate for the petitioner
Ms. Madhu Dayal, Advocate for the respondents

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G.S. SANDHAWALIA, J. (Oral)

The only issue which arises for consideration is the benefit of interest on the delayed payment of retiral dues of leave encashment in a petition filed by the petitioner under Articles 226/227 of the Constitution of India. It is not disputed that *qua* the Gratuity amount the Controlling Authority under the Payment of Gratuity Act, 1972 has already directed the respondent-Department on 02.12.2016 (R4) to deposit amount of interest @ 9% p.a. for the period from 01.04.2015 till 11.02.2016. In view of the said order the amount had been deposited, at the time of filing of appeal.

Ms. Madhu Dayal submits that the appeal against the order dated 02.12.2016 (R4) filed before the Appellate Authority met with no success. Thus the Gratuity aspect stands already settled.

The only issue which would require consideration is regarding the interest element on leave encashment of Rs.1.50 lakhs which was paid on 01.07.2016 (R3) on account of finalisation of the departmental enquiry. The petitioner retired as Ex.DGM with the respondent-Corporation on 27.02.2015. Thereafter a charge-sheet dated 26.11.2015 had been served upon the petitioner. It is not disputed that at the time of his retirement, the petitioner had a clean slate and the charge-sheet was issued only on 26.11.2015 in as much as no proceedings had been initiated against him at that point of time.

After six months, the charge-sheet dated 26.11.2015 had been issued and thereafter the petitioner filed reply on 07.01.2016. Eventually vide punishment order dated 16.06.2016 (R2), the petitioner was awarded minor penalty of warning under Rule 12.2.3 of Chapter XII of CITCO Employees Service Regulations by taking a lenient view. Thereafter on 01.07.2016 (R3) the amount of Rs.1.50 lakhs which had been withheld on account of the departmental enquiry had been released.

Though there is as such a justification as argued by Ms. Dayal to withhold the amount of leave encashment but as noticed the said charge-sheet was only issued post-retirement of the petitioner. Counsel for the respondents could not as such justify under which provision of the Rules as such, the amounts of the petitioner-retiree could be withheld.

The principle question has been redressed by a Full Bench of this Court in **A.S.Randhawa vs. State of Punjab, 1997(3) SCT 468** that the pensionary benefits should be processed expeditiously well before retirement and paid within 2 months. The amount thus became payable on 01.05.2015. In the present case, as noticed the payment was not made rather a charge-sheet was issued after the retirement of the petitioner and subsequently, the proceedings were dropped as such (Annexure R2). In such circumstances, this Court is of the opinion that the respondents have become liable to pay interest @ 9% p.a. for a period of one year to the petitioner which shall be paid within *two months* from the date of receipt of certified copy of this order.

The writ petition stands disposed of accordingly.

26.08.2019 **(G.S. Sandhawalia)**
vvishal **Judge**

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