

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 26965 of 2017(O&M)
Date of Decision: 08.11.2019

Baldev Singh

..... Petitioner

V/s.

Oriental Insurance Co. Ltd. and others

.....Respondents

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

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Present:- Mr. Padamkant Dwivedi, Advocate
for the petitioner.

Mr. D.C. Kumar, Advocate
for the respondents.

G.S. SANDHAWALIA,J (ORAL)

The petitioner has filed the petition under Articles 226/227 of the Constitution of India seeking benefit of interest on the delayed payment of the retiral dues of gratuity and leave encashment from the date of approval i.e. 31.05.2008 to the date of actual payment on 19.01.2017.

It is the case of the petitioner that he was working as Assistant with the respondent-insurance company having earlier served with the Indian Army (Medical) and was promoted as Administrative Officer w.e.f. 31.03.2004 and was entitled for two increments for his service rendered in Indian Army in terms of National Emergency Service Rules, 1965. The same had been granted to him retrospectively w.e.f. the year 1978. The aforesaid two increments were withdrawn just prior to his retirement. Thereafter, he filed a civil suit for declaring the orders dated 21.12.2005 and 28.03.2007 null and void, which was decreed in his favour on 11.05.2011 (Annexure P-1) and directions were also issued to the respondents to refund

the amount of Rs.50,000/- alongwith interest @18% per annum.

It is not disputed that the appeal was dismissed on 13.12.2013 (Annexure P/2) and as per the reply of the respondents. RSA No. 1870/2014 was also dismissed on 16.10.2014.

The defence of the respondents is that after retirement on 31.5.2008 gratuity to the tune of ₹ 3,50,000/- was paid on 3.7.2008. The balance amount of gratuity was paid on 28.1.2011 and 28.11.2016. The commutation of pension was paid on 14.5.2009 along with settlement of GLIS. Leave encashment of ₹ 2,28,968/- was paid on 8.6.2008 and thereafter on 17.2.2011 and 11.1.2017. The delay in the payment of gratuity and leave encashment which was paid in the year 2011 is stated to be on account of the fact that the suit was pending. It was also the case of the respondents that a sum of ₹ 2,09,311.89 in excess had been paid which, however, had been refunded by the petitioner in eleven easy installments. Similarly interest on the delayed payment of leave encashment and interest on the gratuity was also paid to the tune of ₹ 20,948.17 and ₹ 1,88,363.72 respectively on 19.1.2017.

It is not disputed that the suit was decreed on 11.5.2011 and the appeal was dismissed on 13.12.2013. There was reasonable cause as such for the delay which had occurred at the first instance as the same had to be calculated on the basis of service rendered and the increments drawn which had been withdrawn and which had led to delay in disbursal of the amount. However, once the appeal was dismissed on 13.12.2013 by the Lower Appellate Court and there was no stay by any Court including this Court in Regular Second Appeal. Payment of gratuity was made on 28.11.2016 to the

tune of ₹ 1,39,892/- and similarly payment of leave encashment to the tune

of ₹ 15,347/- which was paid on 11.1.2017 was delayed unnecessarily. Resultantly, respondent-company is liable to pay interest on the aforesaid two amounts from 13.12.2013 to till the dates of release of respective payments.

The Full Bench judgment in **A.S.Randhawa, Supdt. Engineer (Retd.) Vs. State of Punjab** 1998(1) Service Cases Today 343 had laid down the law regarding issue of interest on delayed payment of retiral benefits. Accordingly, interest amount be calculated @ 8% per annum on the aforesaid two amounts from 13.12.2013 to till the dates of release of respective payments and the same be paid to the petitioner within a period of two months from today. In case the amount is not paid within the stipulated period, the rate of interest shall go to 10% per annum.

The writ petition is, accordingly, disposed of.

November 08, 2019
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(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No