

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 8113 of 2016
Date of Decision: 09.07.2019

Hemlata

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Pawan Kumar, Senior Advocate with
Ms. Rajni Gupta, Advocate and
Mr. Surya Kumar, Advocate
for the petitioner.

Ms. Simran Grewal, AAG Punjab.

RAJIV NARAIN RAINA, J. (Oral)

1. The petitioner has been brought to Court on a stretcher. Unfortunately, this Court was not apprised of her critical condition when the previous order was passed asking her to be present in Court with her husband to speak directly on her affidavit submitted to the department waiving her rights. And to say as to why she wants to withdraw the petition, otherwise the order may not have been passed and only her husband could have been called to find out if there was any pressure or compulsion on the part of some official. She is unable to speak. I have asked her husband, Surinder Parkash who is present in Court, whether the affidavit dated 24.05.2019 has been furnished by his wife on her free will to the Department and the circumstances which led to it. And whether they want to withdraw this affidavit and press their rights to interest on the principal amounts as mentioned in paragraph No.4 of the affidavit dated 28.05.2019 deposed to by

Dr. Rajan Kumar Singla, Medical Superintendent, Rajindra Hospital, Patiala admitting therein that the total interest amounts to Rs.56,532/- which is due and payable and the department is ready to disburse the amount but for the affidavit of relinquishment. He has only kept his hands folded. Paragraph No.4 of the affidavit is reproduced below:

“4. That a total sum of Rs.56,532/- is calculated on account of interest in lieu of leave encashment and DCRG. Leave encashment amounting to Rs. 79,010/- and interest calculated on it is Rs. 21,333/- ($79010 \times 9\% \times 3/100 =$). In regard to revised pension arrear, it will be given by Bank. DCRG amounting Rs.1,30,366 and interest calculated on it is Rs.35,199/- ($130366 \times 9\% \times 3/100 =$). Therefore total interest amounting to Rs.56,532/-.

2. In view of this admitted position there is no doubt that money is owed, and the self-declaration of the petitioner that she wants to withdraw the case giving up her right to interest on delayed payments of retirement benefits no longer holds good. The affidavit appears to have been filed in frustration due to long pendency of the case. The State is held bound down to the admissions in para 4 of the affidavit which admissions will prevail over all other things. Therefore, regard will not be paid to the petitioner's affidavit dated 24.05.2019 attested by the Public Notary, Patiala.

3. Since the State has no objection to the payment, the petition is allowed and the amount shown in para 4 of the affidavit dated 28.05.2019 becomes the rightful due to be paid to the petitioner. Payment be made

within 15 days of the date of receipt of certified copy of the order.

4. For the delay in payment of retiral dues and non-payment till date, a sum of Rs.10,000/- is reasonably assessed to be paid to the petitioner as costs/damages by the State with the right of recovery from erring persons who caused the delay, in addition to, and together with, the outstanding interest amount for compelling her to approach court in a just cause and the amount withheld without any valid justification.

(RAJIV NARAIN RAINA)
JUDGE

09.07.2019
kv

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No