

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

CWP No.15722 of 2016
Date of Decision: 26.2.2020

Om Parkash

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Rajvir Singh Sihag, Advocate, for the petitioner.

Mr. Pankaj Mulwani, Deputy Advocate General, Haryana.

NIRMALJIT KAUR, J. (Oral)

Prayer in the present petition is to release the pension and pensionary benefits due to the petitioner including the arrears of salary w.e.f. February, 2013 to August, 2013 alongwith increments, arrears of pension w.e.f. September, 2013 till date and future pension and other terminal dues alongwith interest.

It is not disputed that the payment towards gratuity, arrears of pension have since been made on 15.11.2016 and the subsequent monthly pension is also being paid to the petitioner. Thus, the relief claimed in the present petition is rendered infructuous except for the payment of interest on the delayed amount.

While denying the interest, learned State counsel submitted that the petitioner did not submit his pension papers on time. The petitioner was requested to submit the pension papers vide letter dated 22.8.2016. The petitioner submitted the pension papers and thereafter, the payment towards gratuity, arrears of pension were made on 15.11.2016 within two months.

Hence, the petitioner is not entitled to the interest on the delayed payment.

The argument raised by learned State counsel cannot be sustained in view of the following admitted position:-

(a) The petitioner suffered brain stroke and was permanently physically disabled. He became totally dependent on his family members for his routine movement.

(b) Accordingly, the petitioner applied for voluntary retirement, vide letter dated 19.6.2013.

(c) The respondents finally accepted the request for voluntary retirement as late as on 6.8.2015 (Annexure P-7) and that too after the petitioner was forced to file CWP No.846 of 2016 seeking direction to the respondents, which was disposed of on 15.1.2016 directing the respondents to treat the writ petition as representation and pass a speaking order. Thereafter, the petitioner sent a legal notice dated 23.4.2016 reminding the respondents to comply with the order dated 15.2.2016 passed in CWP-846-2016.

The argument of learned State counsel that the delay was on account of an error in the order of sanctioning leave of the petitioner, does not help. The fact that the leave was sanctioned by an unauthorised officer and was subsequently rectified on an objection raised by the Additional Chief Secretary, Haryana Government, Excise and Taxation Department, cannot be attributed to the petitioner. The fault, if at all, lies with the Department. Here, the petitioner was lying paralyzed on account of brain stroke. He had submitted his request for voluntary retirement as early as on 19.6.2013. The same was not accepted. The petitioner meanwhile retired on 31.12.2014 and was forced to file writ petition to decide his application for voluntary retirement. Still, it was not decided. Thereafter, he sent a legal

notice. It was only thereafter that the respondents accepted the voluntary retirement vide order dated 6.8.2015 w.e.f. 31.8.2013. Obviously, the pension papers could be submitted only thereafter. Thus, the delay, if at all is at the behest of the respondents. Accordingly, the respondents are directed to pay interest @ 6% per annum from 31.8.2013 till the retiral benefits were finally released to the petitioner i.e. 15.11.2016. The payment of interest be paid to the petitioner within a period of two months. In case, the same is not paid within the period mentioned above, the respondents shall be liable to pay interest @ 12% per annum after the expiry of the two months.

The petition stands disposed of as above.

(NIRMALJIT KAUR)
JUDGE

26.2.2020
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Whether Speaking/Reasoned :	Yes/No
Whether Reportable :	Yes/No