

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP No.16989 of 2015(O&M)
DECIDED ON : 18.02.2020

Tarlochan Singh

...Petitioner

versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE GIRISH AGNIHOTRI

Present : Mr. Vishal Sharma, Advocate for the petitioner.

Mr. Rajesh Bhardwaj, Sr. DAG, Punjab.

GIRISH AGNIHOTRI, J. (ORAL)

The present petition has been filed by petitioner-Tarlochan Singh, *inter alia*, praying for directions to the respondents to release the pensionary benefits including, Death-cum-Retiral gratuity, leave encashment, GIS etc., to the petitioner on his retirement on 31.03.2015 with 18% interest.

Learned counsel for the petitioner submits that the present writ petition was filed on 30.07.2015. On 18.08.2015, notice of motion was issued by this Court.

Learned counsel further submits that the petitioner was initially appointed as a class IV employee in the year 1978. In September 2004, he was promoted as Senior Assistant, as per Punjab Government Instructions. In the year 2008, one of his co-colleagues namely Sohan Lal, who was going to retire had retained the government accommodation on market rent, on which the petitioner had given surety.

Learned counsel submits that his co-colleague had failed to tender required rent and the same has been deducted from his pension @

Rs.5,000/- per month and that a sum of Rs.2,36,799/- and Rs.800/- is due to be paid by said Sohan Lal to the petitioner and the same has been retained by the department.

On the last date of hearing i.e. on 09.01.2020, following order was passed:-

“On instructions from Ms. Amarjeet Kaur, Senior Assistant, Department of Revenue, learned State counsel informs the Court that an amount of Rs.2,36,799/- is still due to be recovered on account of the interest from one Mr. Sohan Lal. She further states that an another amount of more than Rs.800/- is also due to be recovered.

In this view of the matter, amount due to the petitioner beyond Rs.2,40,000/- be released within three weeks from today.

Adjourned to 18.02.2020.”

At this stage, i.e. after 5 years, there have been subsequent developments. The petitioner may supplement his submission by filing short affidavit before the Competent Authority, apprising it, of the difficulty faced by him. He may also submit a proposal as to how the issue can be resolved and the amount due to be released to the petitioner be released.

This Court in view of the peculiar facts and circumstances of the case, as submitted above, disposes of the present writ petition with the following directions to the Competent Authority to re-examine the issue:-

- i) The Competent Authority is directed to re-examine the case of the petitioner and pass a speaking order on the point if any rule or instructions permit the respondent-department to withheld the retiral benefits of a co-employee who merely stood as surety at the time of allotment of house?
- ii) Re-assess the paying capacity of the colleague of the petitioner, namely, Sohan Lal. In case, from other dues which are payable to Sohan Lal or as a

result of any enhanced pension, he is in capacity to pay more than Rs.5000/- per month, the Competent Authority may consider and enhance the same so that the liability on the present petitioner is cleared at the earliest.

iii) The Competent Authority may examine the affidavit and the proposal submitted by the petitioner, which the petitioner may submit within two weeks from the receipt of certified copy of this order. The Competent Authority after examining the proposal may take appropriate decision in view of the fact that if substantial amount already stand recovered from Sohan Lal, then appropriate dues of the petitioner, which are still retained, be released within a month of the decision so taken by the Competent Authority.

iv) The amount retained of the petitioner, be examined in accordance with law, as per instructions prevalent, for grant of interest. If he is entitled to interest (under Policy-Guidelines), the same be also considered and granted to him. The authority may take a decision within three months from the date of receipt of certified copy of this order.

February 18, 2020

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**(GIRISH AGNIHOTRI)
JUDGE**

Whether speaking/reasoned : YES/NO
Whether reportable : YES/NO