

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

CWP No.26036 of 2013
Date of decision : 14.1.2020

Krishan Singh Lather

....Petitioner

versus

Uttar Haryana Bijli Vitran Nigam Limited and others

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Sushil Jain, Advocate, for the petitioner.

Mr. P.S. Punia, Advocate, for the respondents.

Nirmaljit Kaur, J. (Oral)

Prayer in the present petition is for quashing the action of the respondents by which the retiral benefits of the petitioner has been withheld, whereas, the petitioner retired on 31.5.2012 only on the ground that disciplinary proceedings were pending against him.

Admittedly, the said disciplinary proceedings have finally culminated into his acquittal vide order and judgment dated 8.5.2018 passed by the Appellate Authority during the pendency of the present writ petition. Thereafter, the remaining pensionary benefits which were withheld were released on 9.1.2019. Thus, the only dispute that nothing survives in the present petition is with respect to the prayer of interest on the withheld amount of retiral benefits.

As per instructions dated 20.2.2002 issued by the Finance Department Government of Haryana No.1/2(152)01-2FR-II, an employee is entitled to interest against the retiral benefits due to him which were withheld on account of disciplinary proceedings in case the employee is

clearly exonerated. Clause 5 (i) of the instructions dated 20.2.2002 reads as under:-

“5. However, these instructions would not be applicable in cases where the payment of retiral benefits is withheld on account of disciplinary proceedings pending against the said employee at the time of his retirement. A further issue would also arise regarding payment of interest on the retiral benefits in case of such employees who are facing disciplinary proceedings at the time of their retirement/superannuation from Government service. These cases should be decided in the following manner:

(i) In the case of an employee against whom disciplinary proceedings are pending at the time of retirement and the employee is clearly exonerated and steered clear of all the charges during the process of disciplinary proceedings and proved innocent, the retiral benefits due to him should be paid alongwith interest from the date of retirement till the date of payment.”

Based on these instructions, this Court in another set of similar circumstances was pleased to grant the interest on the delay payment by observing as under:-

“5. The explanation offered by the respondents to explain the delayed payment of pensionary benefits, apparently, is not justified. The delay to regularize the period of suspension may be justified due to pending CBI inquiry, but once the petitioner has been exonerated and no charge was preferred against him, the withholding of substantial amount due to him may not be justified. There may be some justification for finalizing the period of suspension upon completion of CBI inquiry, but virtually the action of the respondents in withholding the gratuity and arrears of pension, which have not been paid to him, would not be justified. This aspect is also required to be

analyzed in the light of the policy instructions issued by the Government, where it has specifically been provided that when a Government employee is exonerated in the departmental or other proceedings pending against him without taking any action, then the retrial benefits, which had been withheld, are required to be released to him with interest.”

In the case in hand, the petitioner was exonerated and acquitted vide order and judgment dated 8.5.2018 passed by the Appellate Authority

In view of the above, the writ petition is disposed of. The respondents are directed to pay interest @ 6% per annum on the amount of DCRG and commutation of pension from the date it was due to the petitioner upto his retirement with a period of three months. In case the said amount is not paid within three months, the same shall be paid thereafter alongwith 12% interest from the expiry of the period of the said three months.

(NIRMALJIT KAUR)
JUDGE

14.1.2020
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Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No