

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

244

CWP-20256-2017

Date of decision: 25.02.2020

Surjit Singh

.....Petitioner

versus

Presiding Officer, Industrial Tribunal, Amritsar and another

....Respondents

CORAM: Hon'ble Mr. Justice Girish Agnihotri

Present: Ms. Sushma Chopra, Advocate
for the petitioner.

Mr. Ashok Paul Batra, Advocate
for the respondents.

GIRISH AGNIHOTRI, J. (Oral)

The present petition has been filed by the petitioner-Surjit Singh
inter alia with the prayer to modify the order dated 16.08.2016 (Annexure
P-5), passed by the Industrial Tribunal, Amritsar.

Vide order dated 16.08.2016, the Industrial Tribunal has granted
the relief as under:-

xxxx xxxx xxxx xxxx

*15. In view of my findings on the above issue, application of
the applicant is allowed. The respondent is directed to
calculate the amount of leave encashment as per rules and
be paid to the applicant within one month of the
publication of this order in the official gazette along with
interest at the rate of 9% per annum from 30.11.2014 till
the payment is made. Reader of this Tribunal is directed to
forward three copies of this order to Assistant Labour
Commissioner/Labour-cum-Conciliation Officer, Amritsar,
as required under section 33-C(4) of the I.D. Act read with
Notification No. S.O. 66/C. A.14/1947/S.17/2008 dt.*

1.10.2008. File be consigned to record room.

August 16, 2016

(Jasjit Singh Bhinder)
(Addl. District & Sessions Judge)
Presiding Officer, Industrial Tribunal,
Amritsar”

Learned counsel for the petitioner then makes reference to Para 4 of the application (Annexure P-4), filed by the petitioner under Section 33-C(2) of the Industrial Disputes Act. Para 4 of the application is reproduced as under:-

xxxx xxxx xxxx xxxx

“4. That the respondent society has not so far paid the determined and admitted amount of leave encashment of Rs.1,86,543/- inspite of lapse of more than six months. The applicant had approached the office bearers of the society several times in the last six months and requested them to release the amount of retirement benefits including leave encashment. But the respondent society is delaying the matter on one pretext or the other, without any rhyme or reason. The amount of Rs.1,86,543/- of leave encashment alongwith amount of gratuity of Rs.3,50,000/-, total Rs.536543/- is also being shown as payable in the balance sheet of the society as on 30/11/2014. [Copy of Balance sheet dt.30.11.2014 enclosed as Annexure 'C'] ”

From the above, it is evident that claim of the petitioner was two-fold, firstly it was for release of leave encashment amounting to Rs.1,86,543/- and second claim was for gratuity amounting to Rs.3,50,000/- (total of Rs.5,36,543/-). This issue has been considered by the Industrial Tribunal in order dated 16.08.2016 in Para 14. But in the relief Clause, rather than mentioning the complete retiral benefits including gratuity, only it has been mentioned that the respondents are directed to calculate the amount of leave encashment.

At this stage, learned counsel for respondents makes two-fold

submissions. He submits that firstly as far as the relief granted vide order dated 16.08.2016, passed by the Industrial Tribunal, he has instructions to submit that the said amount of leave encashment if not disbursed, will be disbursed to the petitioner within a period of three months from the date of certified copy of the order. Secondly, he submits that for the second relief of gratuity, the petitioner had filed an application before the Assistant Labour Commissioner-cum-Authority under Payment of Gratuity Act, Amritsar. The said application has already been allowed vide order dated 28.09.2018, whereby, an amount of Rs.3,50,000/- has been awarded. He further submits that the said amount has been deposited with the Controlling Authority under the Payment of Gratuity Act on 29.07.2019. Learned counsel further submits that he has instructions that the respondents have deposited the said amount as a pre condition for filing the appeal against the impugned order dated 28.09.2018.

In view of the above, no further orders are called for in the present writ petition. Writ petition is **disposed of** with the direction that the amount of leave encashment as per the order dated 16.08.2016 (Annexure P-5), passed by the Industrial Tribunal, be released to the petitioner within a period of three months from the date of receipt of certified copy of the order.

(GIRISH AGNIHOTRI)
JUDGE

25.02.2020
anju rani

Whether speaking/ reasoned:
Whether Reportable:

Yes/No
Yes/No