

Krishna Devi, Safai Sewika, Municipal Council, Abohar, District Fazilka

...Petitioner

Versus

Gurdas Singh, Executive Officer, Municipal Council, Abohar, Distt. Fazilka

....Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. PeeushGagneja, Advocate for the petitioner.

Ms. Roja Agnihotri, Advocate for the respondent.

Mr. Davinder Jaura, Executive Engineer, Municipal Corporation, Abohar and Mr. Gurdass Singh, Executive Officer, Nagar Council, Boha, in person.

B.S. Walia, J. (Oral)

1. Pursuant to order dated 06.09.2022, Ms. Roja Agnihotri, Advocate puts in appearance on behalf of the respondent and has filed reply by way of affidavit dated 15.09.2022, mentioning therein that absence of presence of the respondent / counsel was not intentional but on account of notice received from the Court having been misplaced. Reply also mentions that copy of order dated 01.04.2022, releasing payment of Rs.18,29,482/-, as produced by counsel for the petitioner and referred to by this Court in its order dated 06.09.2022, was actually replyin the case of another employee with the same name and designation whereas payment made to the petitioner has been mentioned in paragraph No.5 of the reply filed today.

2. Copy of reply has been supplied to learned counsel for the petitioner, who states that he has already received a copy thereof and has verified the details given in paragraph No.5 and the contention of the respondent in respect thereto is correct that the petitioner was entitled to total amount of Rs.10,67,364/- and not to the amount as recorded in order dated 01.04.2022, which was produced by him on the previous date i.e. 06.09.2022. Details of the same are asunder:-

Sr. No.	Head	Amount payable	Amount paid	Cheque No. / Date	Balance Amount
1	Gratuity	4,65,975/-	1,00,000/- 2,00,000/- 1,65,975/-	209531/09.07.2018 225190/19.07.2018 225233/10.08.2018	NIL
2	Leave Encashment	1,56,360/-	56,360/- 1,00,000/-	225233/10.08.2018 374868/24.09.2018	NIL
3	PF	4,45,029/-	1,00,000/- 3,45,029/-	852800/31.05.2017 431156/02.11.2018	NIL
Total Amount	10,67,364/-	10,67,364/-	10,67,364/-	NIL	NIL

3. A perusal of paragraph No.5 of the reply reveals that apart from payment of Rs.1 Lakh made on account of provident fund to the petitioner on 31.05.2017, Rs.9,67,364/- was released to the petitioner on different dates during the period July to November, 2018.

4. Learned counsel for the respondent contends that Mr. PeeushGagneja, Advocate, is also representing another employee by the same name and designation as that of the petitioner in the instant case, and the mistake occurred due to mix-up of the replies supplied to learned counsel for the petitioner in both the cases. Learned counsel contends that the entire amount due to the petitioner on account of retiral benefits has been paid to the petitioner along with interest @ 9% per annum due to delay in release of retiral benefits on availability of funds, and that

payment could not be made earlier due to acute paucity of funds,

therefore no action is called for under the Contempt of Courts Act, 1971 against the respondent.

5. I have considered the submission of learned counsel.

6. Admittedly, the petitioner retired as SafaiSewika from the Municipal Corporation, Abohar on 30.05.2017 and apart from 10 % of the retiral benefits released to the petitioner in the year 2017, balance 90% of the retiral benefits were released to the petitioner in the year 2018, as per details noted above along with interest which was paid on 10.09.2022, on account of delay in release of retiral benefits in view of the decision of Hon'ble the Full Bench of this Court in '**R.S. Randhawa**versus **State of Punjab**', 1997(3) RSJ 318 as well as Punjab Government Instructions No.1/15/90IFPIII/4226, dated 10.05.1990.

7. Although there is no mention in the reply indicating the reasons for delay in releasing the payment to the petitioner, learned counsel for the petitioner fairly pointed that the reason for delay in release of dues as being mentioned in order Annexure R/1 i.e. that payment of retiral benefits would be made to the petitioner in six equated monthly installments from the date of passing of order due to lack of funds and inability to even pay salary to the employees. Accordingly, in view of speaking order Annexure R/1 dated 12.04.2018, having been passed within the time specified in order Annexure P/1, holding the petitioner entitled to payment of Rs.10,67,364/-, out of which Rs.1 Lakh was paid on 31.05.2017, and the balance payment of Rs.9,67,364/- was made during period commencing July, 2018 to November, 2018, on receipt of funds, it is apparent that failure to make payment within

reasonable period of time to the petitioner cannot be said to be intentional and willful.

8. In view of the position noted above, the contempt petition is disposed of as not calling for any action against the respondent under the Contempt of Courts Act, 1971.

9. All pending misc. applications also stand disposed of.

15.09.2022

rajesh

(B.S. Walia)

Judge

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