

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

248

CWP-707 of 2020

Date of Decision: 16.01.2023

Ram Burn

....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Diwan S. Adlakha, Advocate,
for the petitioner.

Ms. Lavanya Paul, DAG, Punjab

Mr. Vijay Kumar Kaushal, Advocate,
for respondents No.2 to 4.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Articles 226/227 of the Constitution of India seeking quashing of Annexure P-5 and also interest on the delayed payments on the retiral benefits.

Learned counsel for the petitioner submitted that he does not wish to press the first prayer because the retiral benefits have already been paid to the petitioner and confines the scope of the present petition only to the extent of interest since he has been paid retiral benefits with undue delay. He submitted that when the retiral benefits were not paid to the petitioner, he had filed a petition before this Court in CWP-28970 of 2018 whereby vide Annexure P-3 a direction was issued by this court on 16.11.2018 to the competent authority to decide the legal notice within a period of three months and in case the competent

authority comes to the conclusion that the petitioner is entitled for the relief claimed in the legal notice then the said consequential benefits be also released to the petitioner within a period of three months. He submitted that thereafter respondent No.4-Executive Engineer had passed a speaking order vide Annexure P-5 wherein it had been stated that the retiral benefits have now been paid. He submitted that the petitioner retired as Peon on 31.10.2017 from the office of respondent No.4-department and even as per the speaking order passed by the Executive Engineer (respondent No.4), the gratuity and leave encashment were paid to the petitioner on 27.11.2018 and 02.11.2018 respectively after delay of one year. So far as the payment of CPF is concerned, the same was paid on 22.02.2018 for which the petitioner does not press this claim but so far as the payment of gratuity and leave encashment is concerned, there was an inordinate delay of one year for no fault of the petitioner and even it has been so stated in the speaking order passed by respondent No.4 that the delay has occurred due to procedural matter and arrangement of funds.

Learned counsel for the petitioner further relied upon a Full Bench judgment of this Court in **A.S. Randhawa versus State of Punjab and others** 1997(3) SCT 468 to contend that a petition for grant of interest only is maintainable and the pension and the pensionary amount is not the bounty of the Government and the respondents are liable to pay the interest to the petitioner since there was no justification and reason as to why there was a delay.

Mr. Vijay Kumar Kaushal, learned counsel appearing on behalf of respondents No.2 to 4 has submitted that it is correct that the petitioner retired on 31.10.2017 and his gratuity and leave encashment were paid after a period

of one year. He submitted that the delay has occurred because of procedural matter and due to arrangement of funds and that there was no other impediment with the respondents to have not paid the retiral benefits in time.

I have heard the learned counsel for the parties.

The only grievance of the petitioner is with regard to payment of interest on delayed payment of the retiral benefits pertaining to gratuity and leave encashment which have been paid to him after a period of one year even as per the speaking order passed by respondent No.4 vide Annexure P-5. The reasoning which has been given by respondent No.4 that due to procedural matter and arrangement of funds the delay was caused in disbursement of the amount cannot be accepted as it cannot be said to be an impediment for the disbursement of the amount. The petitioner has been constrained to file a second round of litigation by filing of the present petition. When this Court had directed the respondents vide Annexure P-3 to decide the legal notice and in case the competent authority comes to the conclusion that the petitioner is entitled to relief claimed in the legal notice then the said consequential benefit will also be released to the petitioner within a period of three months and consequent thereupon the speaking order Annexure P-5 was passed wherein the amount was disbursed then the petitioner was also entitled for the consequential benefit as well which includes interest. However, no such interest has been paid in this regard.

In view of the above and also in view of the Full Bench judgment of this Court in ***A.S.Randhawa's*** case (supra), the petitioner is entitled for the grant of interest at the rate of 6% per annum on the delayed payment of gratuity and leave encashment only from the date of its accrual till the date of its

disbursal to the petitioner. The said amount shall be calculated by respondents No.2 to 4 and shall be paid to the petitioner within a period of three months from today positively. Since the petitioner had been constrained to file a second round of litigation for seeking his retiral benefits, he is also entitled to costs.

Consequently, respondents No. 2 to 4 shall also pay cost of Rs.20,000/- to the petitioner in addition to the aforesaid interest amount on delayed payments within a period of three months from today.

Therefore, the present petition is partly allowed to the above extent.

(JASGURPREET SINGH PURI)
JUDGE

January 16, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No