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

CWP-14074-2018

Date of Decision: 24.02.2023

Manjit Kaur Ghuman

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Dheeraj Mahajan, Advocate,
for the petitioner.

Ms. Anju Sharma Kaushik, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of an appropriate writ particularly in the nature of *mandamus* or any other suitable, writ, order or directions directing the respondent-Authority to release the gratuity of the petitioner along with the interest and also to grant interest on the delayed payment of retiral benefits @18% per annum.

Learned counsel for the petitioner has submitted that the petitioner had attained the age of superannuation on 31.01.2012, but thereafter, one year extension was granted to her, she had retired on 31.01.2013 as Director Administrator, Punjab School, DPI office, Mohali. He further submitted that prior to her retirement, she was granted an award by the State Government, but the same was challenged by one person, namely, Sucha Singh and he filed a writ petition before this Court and in that writ petition, the State had taken a stand and a Show Cause Notice was

issued to her for the purpose of award been given to her, and thereafter, the petition was disposed of. Thereafter, the State Government had withdrawn the award given to the petitioner and the grievance of the aforesaid Sucha Singh was that the petitioner was facing disciplinary proceedings. Learned counsel for the petitioner further submitted that at the time of retirement, the petitioner was not facing any disciplinary proceedings and after her retirement, she has been given GPF on 07.08.2014 and Leave Encashment on 29.10.2014, even as per the reply filed by the State in Para No.7 of the Preliminary Objections which has been so stated in a tabulated form. He also submitted that Gratuity of Rs.10 lac was not paid to the petitioner and thereafter, the petitioner has filed the present writ petition seeking release of Gratuity and also interest on the delayed payments of the aforesaid GPF and Leave Encashment. He further submitted that as per the reply filed by the State, there was one inquiry which was pending against the petitioner pertaining to missing of file regarding which one FIR was also lodged prior to her retirement, but after the retirement of the petitioner, the said inquiry has also been filed and consigned the record by an order passed by the **Principal Secretary, Govt. of Punjab, Department of Punjab School Education** vide Annexure R/3, dated 22.08.2016 annexed with reply. He also submitted that the operative part of the aforesaid order in Para No.9 would show that it has been so observed by the Principal Secretary, Department of Punjab School Education that no financial loss has been occurred in this office and therefore, the charge-sheet was filed. Learned counsel for the petitioner submitted that there was no justification for withholding the Gratuity of the petitioner and rather there was no order passed by any Authority to withhold the gratuity. He further submitted that

had the respondent-State been within its powers to have withheld the gratuity for any reason whatsoever, then at least some order should have been passed but no order has been passed and therefore, withholding of gratuity was without the Authority of law and particularly in view of the fact that thereafter, the charge-sheet has been dropped by the Highest Authority, who is the Principal Secretary, Government of Punjab School Department by observing that no financial loss has been caused and therefore, now during the pendency of the present writ petition, the gratuity has also been released on 12.07.2019, and therefore, the petitioner is entitled for the grant of interest on the gratuity itself.

On the other hand, Ms. Anju Sharma Kaushik, learned DAG, Punjab has submitted that the dates of release of retiral benefits of the petitioner are as so stated in Para No.6 of the Preliminary Objections and submitted that since the inquiry was pending against the petitioner with regard to missing of file, the gratuity was withheld.

I have heard the learned counsel for the parties.

So far as the delay in the payment of GPF and Leave Encashment is concerned, no justification has come forth from the State and the same has also been paid after about 1½ years of retirement of the petitioner. So far as gratuity is concerned, the same is paid in the year 2019, after the filing of the present writ petition. The reason which was given by the learned State counsel was that there was an inquiry pending against the petitioner with regard to missing of files but thereafter when the order was passed by the Principal Secretary, Government of Punjab School Department on 22.08.2016 vide Annexure R/3, it has been so observed by the aforesaid Principal Secretary that no financial loss has been caused to the State.

On a specific query being asked to the learned State counsel that as to whether any order was passed for withholding of Gratuity, she submitted that as per the reply filed by the State, no such order has been passed in this regard by any competent authority.

During the course of argument, the learned counsel for the petitioner has also pointed out that so far as the FIR bearing No.60 dated 05.06.2013 is concerned, a perusal of the order Annexure R/3 would also show that the status of the same is also mentioned in Para No.6 whereby the concerned SHO had rather stated that no offence was made out against the petitioner and even the FIR was also cancelled by the Police and therefore, there was no justification for the respondent/State to have not paid the gratuity to the petitioner. Therefore, no reason has come forth to justify delay in payment to the petitioner.

In view of the aforesaid position, the present petition is partly allowed. The petitioner shall be entitled for the interest @ 6% per annum on all the retiral benefits which have been paid to her with a delay from the date of her retirement till the date of disbursal. The State is directed to calculate the aforesaid interest on the delayed payments and pay to the petitioner within a period of four months from today.

In case, the aforesaid amount is not paid within the aforesaid period, then the petitioner shall be entitled for future interest @ 9% per annum.

24.02.2023*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |