

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

219

CWP-16373 of 2017

Date of Decision:27.03.2023

Anil Kumar Khosla

...Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Bhavesh Aggarwal, Advocate, for
Mr. Ashish Aggarwal, Advocate, for petitioner.

Ms. Akshita Chauhan, DAG, Punjab for the respondents.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for setting aside the impugned order dated 24.05.2016 (Annexure P-3) vide which the petitioner has been denied the grant of interest on the delayed payment of DCRG.

Learned counsel for the petitioner submitted that the petitioner retired as Director from the Department of Irrigation on 31.08.2008 and prior to his retirement, there was FIR No.134 dated 04.07.2003, under Sections 409, 418, 420, 466, 471, 477-A, 120-B IPC read with Section 13 (1) (d) of the Prevention of Corruption Act, 1988, was registered against the petitioner which was still pending at the time of his retirement. He submitted that after

his retirement, the petitioner was acquitted in the aforesaid criminal case on 27.02.2015 and the petitioner was granted the DCRG on 27.03.2016. He submitted that once the petitioner was acquitted, he is entitled for the grant of interest on the delayed payment of gratuity.

On the other hand, Ms. Akshita Chauhan, learned DAG, Punjab submitted while referring to the reply filed by the State that at the time of the retirement of the petitioner, there was already a criminal trial pending against the petitioner and by virtue of Rule 2.2 (c) of the CSR Vol-II, the judicial proceedings were pending against the petitioner and therefore the gratuity of the petitioner was not released. She submitted that it was by the operation of the provision of the Punjab Services Rules that the gratuity could not be released to the petitioner whereas all the other retiral benefits have been paid to the petitioner and after his acquittal, the gratuity has been released to the petitioner in time i.e. on 27.03.2016 and therefore it cannot be said to be a delay in releasing of the gratuity.

I have heard the learned counsel for the parties.

The petitioner retired on 31.08.2008 as Director from the Department of Irrigation and in the year 2003 there was an FIR registered against the petitioner and as per learned counsel for the parties, judicial proceedings were pending against the petitioner at the time of his retirement. Ultimately, he was acquitted on 27.02.2015 and the respondent-Department had paid all the retiral benefits to the petitioner and withheld the gratuity by virtue of Rule 2.2 (c) of the CSR Vol-II. The aforesaid provision is reproduced as under:-

“2.2 (c) (1) Where any departmental or judicial proceeding is instituted under clause (b) of rule 2.2 or where a departmental proceeding is continued under clause (i) of the proviso thereto against an officer who has retired on attaining the age of compulsory retirement or otherwise, he shall be paid during the period commencing from the date of his retirement to the date on which, upon conclusion of such proceedings, final orders are passed, a provisional pension not exceeding the maximum pension which would have been admissible on the basis of his qualifying service up to the date of retirement or if he was under suspension on the date of retirement up to date immediately preceding to the date on which he was placed under suspension; but no gratuity or death-cum-retirement gratuity shall be paid to him until the conclusion of such proceedings and of final orders thereon.

The gratuity, if allowed to be drawn by the competent authority on the conclusion of the proceedings will be deemed to have fallen due on the date of issue of final orders by the competent authority:”

A perusal of the same would show that in case of pendency of judicial proceedings, it has been so provided that no gratuity or DCRG shall be paid to the employee until the conclusion of such proceedings and of final orders thereon. The gratuity has been paid to the petitioner on 27.03.2016. The gratuity of the petitioner has been withheld by virtue of aforesaid Rule which is by way of operation of law and after the petitioner was acquitted on 27.02.2015, he was paid the gratuity on 27.03.2016 after processing of the case. Therefore, no illegality or perversity can be found in the impugned order which has been passed by respondent No.3.

Consequently, finding no merit in the present writ petition, the same is dismissed.

(JASGURPREET SINGH PURI)
JUDGE

March 27, 2023

dinesh	Whether speaking	:	Yes/No
	Whether reportable	:	Yes/No