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

**CWP No.172 of 2018 (O&M)
Date of Decision: 10.04.2023**

SAMARTH KUMAR

.....Petitioner

Vs

**THE MD THE HARYANA STATE COOP SUPPLY AND
MARKETING FEDERATION LTD**

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Ajay Chaudhary, Advocate
for the petitioner.

Ms. Aditi Sharma, Advocate for
Mr. C.S. Bakshi, Advocate
for the respondent.

RAJ MOHAN SINGH, J.(Oral)

[1]. The petitioner has preferred this writ petition for the issuance of an appropriate writ in the nature of mandamus, directing the respondent to pay interest on delayed payments of leave encashment, gratuity and other retiral benefits for which the petitioner was legally entitled.

[2]. The petitioner had retired from the respondent-Department on attaining the age of superannuation on 31.05.2011. The petitioner was chargesheeted for the loss of Rs.16,850/- on 04.07.2012 i.e. after a period of more than one year of his retirement. The petitioner made a request to the

respondent-Department to release the retiral benefits. The petitioner was punished with the recovery of Rs.11,233/- being 2/3rd of Rs.16,850/-.

[3]. When no action was taken in respect of release of the retiral benefits, the petitioner had to file CWP No.6458 of 2013 which was disposed of with a direction to the respondent to decide the legal notice of the petitioner vide order dated 25.03.2013. No action was taken by the respondent-Department.

[4]. The petitioner filed a Contempt Petition bearing COCP No.2270 of 2014. During pendency of the contempt petition, a speaking order was passed by the respondent on 14.03.2014 and the same was made available to the petitioner. After decision of the aforesaid contempt petition, the petitioner was again chargesheeted vide chargesheet dated 11.07.2014.

[5]. In the aforesaid chargesheet, the amount worth Rs.50.54 lakhs had already been deposited by the Food Corporation of India in favour of the respondent on 16.03.2015, therefore, the aforesaid chargesheet was filed vide order dated 23.07.2015. After withdrawal of the aforesaid chargesheet, the retiral benefits of the petitioner were considered including the revision of ACP Scale w.e.f. 01.01.2006 and 3rd ACP was granted to the petitioner vide order dated 22.04.2016. The

petitioner had already filed statutory appeal against the order of recovery dated 04.07.2012 and the same was accepted vide order dated 07.08.2019 thereby setting aside the order dated 04.07.2012.

[6]. With reference to the aforesaid facts, learned counsel for the petitioner submits that as of now there is no chargesheet pending and the retrial dues of the petitioner have been paid with an inordinate delay from the date of his retirement i.e. 01.06.2011. An amount of Rs.3,03,960/- towards leave encashment was paid only on 10.07.2014 by the respondent and the petitioner is entitled for interest from 01.06.2011 to 10.07.2014. Similarly amount towards arrears of leave encashment to the tune of Rs.19,480/- was paid on 01.08.2016 and the petitioner is also entitled for interest from 01.06.2011 to 01.08.2016 on the aforesaid amount. The amount of gratuity to the tune of Rs.6,39,276/- was paid only on 31.08.2017 and the petitioner is entitled for interest towards delayed payment of gratuity from 01.06.2011 to 31.08.2017. Similarly arrears of ACP amounting to Rs.1,12,221/- was paid only on 10.06.2016 and arrear of ACP amounting to Rs.20,508/- was paid on 10.04.2017 and the petitioner is entitled for interest towards delayed payment from 01.06.2011 till the date of payment of the aforesaid arrears of Rs.1,12,221/- and Rs.20,508/-. Amount of

Rs.21,720/- was recovered from the petitioner vide order dated 14.03.2015 and this amount has been repaid to the petitioner after acceptance of his appeal on 02.01.2017 and the petitioner is entitled for interest from 11.03.2015 to the date of release i.e. 02.01.2017.

[7]. As per government instructions dated 20.02.2002, interest on the delayed amount towards retiral dues is permissible. The respondent-Department was under legal obligation to prepare the pension case of the petitioner within the period of 3 months of his retirement.

[8]. In view of aforesaid position, the interest on delayed payments beyond three months can be appreciated. The interest will accrue to the petitioner w.e.f. 01.09.2011 till the date of payment @ 9.5% per annum as provided in the instructions dated 20.02.2002. Let the interest component be worked out on the amount of Rs.3,03,960/- towards leave encashment from 01.09.2011 to 10.07.2014, on the arrears of leave encashment of Rs.19,480/- from 01.09.2011 to 01.08.2016, on the amount of gratuity of Rs.6,39,276/- from 01.09.2011 to 31.08.2017, on the arrears of ACP amounting to Rs.1,12,221/- from 01.09.2011 to 10.06.2016, on the arrears of ACP amount of Rs.20,508/- from 01.09.2011 to 10.04.2017 and on the amount of Rs.21,720/- from 11.03.2015 to 02.01.2017.

[9]. The interest be worked out within a period of two months from the date of receipt of certified copy of this order and be paid to the petitioner accordingly. The delay, if any in calculating the interest and payment thereof would entail interest @ 12% per annum till final realization of the amount.

[10]. With the aforesaid direction, this petition is allowed.

April 10, 2023
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(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No