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

**CWP No.27425 of 2017 (O&M)
Date of Decision: 02.02.2023**

B.S. THAKUR

.....Petitioner

Vs

STATE OF HARYANA & ORS

.....Respondents

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

Present: Mr. R.P. Dangi, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, D.A.G., Haryana.

Mr. Harsh Aggarwal, Advocate
for the respondent No.2.

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-Federation to release the retiral benefits including Death-cum-Retiral Gratuity (DCRG) to the petitioner along with interest from the date of retirement.

[2]. Learned counsel for the petitioner submits that the petitioner had retired on 30.04.2016 and the death-cum-retiral gratuity (DCRG) was paid only on 21.12.2022. As of now the only surviving issue is with regard to the interest component on

the amount of DCRG which was released only on 21.12.2022 after delay of more than 6 years 7 months and 21 days.

[3]. Learned counsel for the petitioner further submits that the delay in disbursing the aforesaid amount was on account of two chargesheets which never culminated in their logical end. The first chargesheet dated 01.10.2013 was dropped being baseless on 03.04.2018 as nothing incriminating was found therein. The second chargesheet was issued on 01.07.2015 and the same was also dropped on 07.12.2020.

[4]. Learned counsel for the petitioner further submits that the second chargesheet was not related to the petitioner but the petitioner was wrongfully arrayed as a person, who had misconducted himself. The petitioner was member of the Inspection Committee and was never member of the District Level Committee, who was to select site for construction. The nomenclature attached to the inspection committee was to supervise the construction work after selection of the site by the District Level Committee and approval of the layout plan.

[5]. In support of his contention, learned counsel for the petitioner places reliance upon Annexures P-5, P-6 and P-10 to contend that the selection of site was made by the District Level Committee. The layout plan was sanctioned by the Layout Approval Committee. The petitioner was not the member and the signatory to the aforesaid documents. The petitioner was

only XEN Hisar and layout plan was approved by the AGM (Civil) FCI, Haryana, XEN (HQ) Hafed Panchkula and the General Manager, Hafed, Panchkula. The composition of the Inspection Committee was of District Manager, Hisar, Hafed along with XEN of the District concerned and Civil Engineer of FCI. The role of the petitioner figures only in the form of XEN of the District concerned and no overt act can be attributed to the petitioner in the functioning of District Level Committee and that of Layout Approval Committee which were distinct committees operating for specified purposes.

[6]. Learned counsel for the petitioner further submits that since the death-cum-retiral gratuity amount has been illegally delayed by more than 6 years 7 months and 21 days, therefore, the petitioner is entitled for interest from the date of its accrual till final realization of the amount. In support of his contention, learned counsel for the petitioner refers to **J.S. Cheema vs. State of Haryana and others, 2014(13) R.C.R. (Civil) 355.**

[7]. Per contra, learned counsel for the respondent No.2 submits that the petitioner was under obligation to point out the deficiencies in the selection of site.

[8]. Perusal of the Annexures P-5, P-6 and P10 would indicate that the petitioner was nowhere involved in the composition of District Level Committee and that of Layout Approval Committee.

[9]. Having considered the submissions, I find that the grouse of the petitioner is genuine. The petitioner was never member of the District Level Committee as well as that of Layout Approval Committee. The area of operation of the Committee to which the petitioner was member never coincided with the areas of operation of aforesaid two Committees. The entitlement of the petitioner was withheld by the respondents without there being any justifiable reasons as the chargesheets never culminated into any logical end. The first chargesheet was dropped without any headway and the second chargesheet on the basis of submissions made by learned counsel for the petitioner was ultimately dropped on 07.12.2022. Even the petitioner did not appear before any Enquiry Committee in relation to the chargesheets.

[10]. The amount under the death-cum-retiral gratuity remained with the respondent/Authority and the rightful claim of the petitioner has been delayed and the respondent-Authority used the amount in question, therefore, even if the delay is not compoundable by any further negligence on the part of the respondents, still the petitioner is entitled for the interest @ 8% per annum on the death-cum-retiral gratuity with effect from the date on which the same was due i.e. the date of retirement till the final realization of the amount.

[11]. In view of above, this writ petition is disposed of with a

direction to the respondent No.2 to pay the interest @ 8% per annum on the death-cum-retiral gratuity with effect from the date on which the same was due i.e. the date of retirement till the final realization of the amount. If the total amount is not released within a period of two months from today, the rate of interest would be further extended to @ 12% per annum till the same is paid to the petitioner.

February 02, 2023

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No