

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

CWP-35612 of 2019 (O&M)
Date of decision : 12.12.2023

SHIV KUMAR SHARMA

...Petitioner

Versus

CHANDIGARH INDUSTRIAL AND TOURISM DEVELOPMENT
CORPORATION LIMITED (CITCO) THROUGH ITS
CHAIRPERSON/CHAIRMAN O/o SCO 121-122,
SECTOR 17-B, CHANDIGARH AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Mrigank Sharma, Advocate
for the petitioner.

Ms. Madhu Dayal, Advocate
for the respondents.

HARSH BUNGER, J. (ORAL)

1. Petitioner (Shiv Kumar Sharma) has filed the instant writ petition under Articles 226/227 of the Constitution of India, seeking a direction to the respondents for granting penal interest @ 12% on the delayed payment of retiral benefits.

2. Briefly, the petitioner joined the services of respondent No.2- Chandigarh Industrial and Tourism Development Corporation Limited (for short 'CITCO') in the year 1974 on the post of Clerk and retired from the post of Senior Manager on 31.03.2015. It is the case of the petitioner that during his service tenure, he was granted many appreciation letters and all his 'Annual Confidential Reports' were 'good', 'very good' and 'outstanding'.

3. As per the petitioner, he retired from service on 31.03.2015; however, the retiral benefits of gratuity and leave encashment were not released to him and when he took up the matter with the authorities then he was intimated that the same shall be released within a period of two months. Petitioner claimed that on 31.03.2015 i.e. the date of his superannuation, no disciplinary proceedings were pending against him. However, the petitioner received a letter dated 08.06.2015 (Annexure P-7) issued by the Enquiry Officer, Sector 9, Police Station Vigilance, calling upon him to come present in connection with the complaint made by one Anil Kumar Grover. Petitioner claims to have appeared along with other employees of the 'CITCO'; however, he was informed that as and when anything is required of him, he shall be intimated. As per the petitioner, neither any notice nor any charge-sheet was issued to him; however, subsequently, he was informed that the enquiry had been closed as no substance was found in the same in terms of letter dated 12.02.2016 (Annexure P-8).

4. The petitioner claims that his retiral benefits i.e. gratuity and leave encashment were released to him after one year of his retirement; however, no interest on the delayed payment has been granted. The petitioner is stated to have raised the afore-said issue with the authorities by submitting representation dated 12.12.2016 (Annexure P-1) and representation dated 26.10.2018 (Annexure P-2) but to no avail.

In the afore-mentioned circumstances, the petitioner has filed the instant writ petition before this Court.

5. On the other hand, the respondents have submitted that prior to the retirement of the petitioner, on 23.03.2015, one Shri Anil Kumar Grover, Telephone operator had submitted a complaint against the petitioner before

the Chief Vigilance Officer-cum-Advisor to Administrator, U.T. Chandigarh, which was marked for vigilance enquiry vide order dated 24.03.2015. It is submitted that the respondent-Corporation had sent various letters dated 27.04.2015, 26.05.2015, 06.07.2015, 13.08.2015, requesting the Chief Vigilance Officer-cum-Advisor to Administrator, U.T. Chandigarh to intimate the status of the vigilance case against the petitioner and also sought advise as to whether the retiral benefits were to be released to the petitioner. It is submitted that the Superintendent (Vigilance) for Advisor to the Administrator-cum-Chief Vigilance Officer, Chandigarh Administration, vide its letter dated 12.02.2016 (Annexure R-4) informed the respondent-Corporation that Vigilance Enquiry No.16/VIG/C dated 21.05.2015 was considered and it was decided to file the same as regards the petitioner. It is further submitted that the retiral dues of the petitioner were released by the respondent-Corporation in the month of March, 2016. However, learned counsel appearing for the respondents has not disputed the fact that there has been a delay of almost one year in releasing the retiral benefits to the petitioner.

6. In the afore-mentioned circumstances, the only issue which arises for consideration is as to whether the benefit of interest on the delayed payment of retiral dues of gratuity and leave encashment, in the instant case, is liable to be paid to the petitioner.

7. The Hon'ble Full Bench of this Court in ***A.S. Randhawa vs State of Punjab, 1997(3) SCT 468***, had held that the pensionary benefits should be processed expeditiously well before the retirement and paid within a period of two months; therefore, the amount of retiral dues would have become payable to the petitioner on 30.05.2015. In the instant case, although

few days prior to the retirement of the petitioner, a complaint was made by one of the employees of the department involving the petitioner and others; however, it appears that the said proceedings have been dropped against the petitioner in terms of letter Annexure R-4.

8. In the afore-mentioned circumstances, I am of the opinion that the respondents have become liable to pay interest @ 6% p.a. for a period of one year to the petitioner, which shall be paid to him within a period of two months from the date of receipt/presentation of certified copy of this order.

9. The instant writ petition stands disposed of accordingly

10. All pending application/s, if any, shall stand closed.

December 12, 2023

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(HARSH BUNGER)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No