

1
2023:PHHC:166468

CWP-27473-2023
Date of decision: 07.12.2023

V/s

.....Respondents

Present: Mr. Surinder Garg, Advocate
for the petitioner.

The instant petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to release the amount of Rs.2,89,484/- as arrears of Gratuity and Leave Encashment along with 18% interest and further directing the respondents to release the arrears of revised salary from 01.01.2016 to 31.12.2020 along with 18% interest and the amount of Provident Fund lying to the credit of the petitioner, along with statutory interest which has not been paid to the petitioner at the time of his retirement.

Learned counsel for the petitioner contends that the petitioner was working as Driver with Municipal Council, Kotkapura-respondent No.3 and retired on 31.12.2020 after attaining the age of superannuation from the office of respondent No.3. He submits that after his retirement, the retirement benefits were paid to him in the month of July, 2021 on the basis of unrevised pay scale as

11:49 that time the revised pay scales were not made applicable, however, no interest

on the delayed payment of retirement benefits was paid to the petitioner. Thereafter, on 11.09.2021, petitioner had served a legal notice to the respondents for granting interest on delayed payment of retirement benefits. He further contends that when the interest was not paid to the petitioner, then he filed **CWP-7582-2022** with a prayer to direct the respondents to release the interest on delayed payment of retirement benefits and the said writ petition was disposed of vide order dated 08.04.2022 with a direction to the respondent No. 3 to decide the aforesaid legal notice within eight weeks. He submits that on 05.07.2021, the Punjab Government issued a notification for revising the pay scale of the Government Employees in view of 6th Pay Commission and the said pay scales were also applicable on the Municipal Council employees and hence, in view of the above, the pay of the petitioner is to be revised w.e.f. 01.01.2016 and arrears of salary are to be paid to the petitioner from 01.01.2016 to 31.12.2020.

Learned counsel for the petitioner submits that the Punjab Government issued Notification No.3/01/2021-3FDPC/281 dated 29.10.2021 vide which the maximum limit of retirement-cum-death gratuity was raised from Rs.10 Lac to Rs.20 Lacs and the revised rates of DCRG shall be admissible w.e.f. 01.01.2016 and therefore, in view of the above, learned counsel again submits that the pay of the petitioner is liable to be refixed as Rs.59,085/- at the time of his retirement and his benefits are to be calculated afresh on the said pay and same are liable to be paid to the petitioner. He further submits that the petitioner is entitled for the leave encashment and the gratuity amount of Rs.12,27,150/- according to the total qualifying service of the petitioner i.e. 36 years. He again submits that the total amount of gratuity and leave encashment of the petitioner comes out to be Rs.17,58,915/- out of which only Rs. 14,69,431/- has been paid

so the said amount to be paid along with interest 18% per annum. Learned counsel further contends that the petitioner has again served legal notice dated 25.07.2023 (Annexure P-3) to respondents, which has not been taken into consideration till date and the petitioner would be satisfied if necessary directions are given for deciding the legal notice in a time bound manner.

Notice of motion.

On asking of the Court, Mr. Arun Gupta, AAG Punjab, who is present in the Court who accepts notice on behalf of respondents No.1 & 2 and submits that respondent No.3 is the competent authority to decide the legal notice.

Mr. Sanjeev Soni, Advocate, who is also present in the Court, accepts notice on behalf of respondent No.3.

In view of the pleadings in the present petition, without expressing any opinion on the merits of the case or the claim being made by the petitioner in the legal notice dated 25.07.2023 (Annexure P-3), respondent No.3 is directed to decide the aforesaid legal notice in accordance with law, by passing a speaking order within a period of 8 weeks from the date of receipt of certified copy of this order with a further direction that if the petitioner is found entitled to the monetary benefits as claimed in the abovesaid legal notice, necessary disbursement of funds shall be made to the petitioner within a period of 8 weeks thereafter.

The petition stands disposed of.

(DEEPAK MANCHANDA)
JUDGE

07.12.2023
Sapna

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No