

**CWP-12873-2020(O&M)****1****IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****109+225****CM-8197-CWP-2024 in/and
CWP-12873-2020 (O&M)****Date of Decision: May 14, 2024****Surender Kumar Bansal****.... Petitioner****Versus****State of Haryana and others****.... Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI****Present: - Mr. Nilesh Bhardwaj, Advocate
for the petitioner****Mr. Harish Rathee, Senior DAG., Haryana.****Mr. I. S. Sidhu, Advocate
for respondent No.4.************HARSIMRAN SINGH SETHI, J. (ORAL)****CM-8197-CWP-2024**

This is an application under Section 151 of the Code of Civil Procedure for placing on record the additional affidavit of the petitioner alongwith Annexures P-16 to P-21.

For the reasons mentioned in the application, the same is allowed. Additional affidavit of the petitioner alongwith Annexures P-16 to P-21 is taken on record.

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1. In the present petition, the claim of the petitioner is that the benefits arising out of his retirement have not been released to him which act on the part of the respondents is arbitrary.



2. Learned counsel for the petitioner submits that as per the petitioner, he retired on attaining the age of superannuation on 31.03.2019 but, his pensionary benefits were not released. Thereafter, two charge sheets were issued to him one on 28.10.2020 and another on 13.01.2021. Keeping in view the pendency of the charge sheets, the leave encashment as well as the commutation of pension was withheld by the respondents. The petitioner approached this Court for the release of the said benefits along with interest. During the pendency of the present writ petition, both the charge sheets have been decided.

3. With regard to the charge sheet dated 13.01.2021, 10% cut in pension for a period of seven years has been imposed vide order dated 23.08.2022 whereas, the charge sheet dated 28.10.2020 has been dropped by the respondents vide order dated 14.03.2023 after which, a direction was given to release the pensionary benefits of the petitioner forthwith.

4. Learned counsel for the respondents submits that with regard to the grant of leave encashment the same has been released but, as no due certificate from all the stations where the petitioner had discharged the duty is yet to be received, in case, any amount is recoverable from him, the petitioner be directed to give an undertaking to make good the said recovery.

5. Learned counsel for the petitioner submits that the petitioner has already filed an application before this Court bearing CM-8197-2024 wherein, the petitioner has already given an undertaking that in case, any such amount becomes liable to be paid by the petitioner, the same will be paid by him without raising any resistance. Learned counsel for the petitioner further submits that the commuted value of the pension has not been released so far hence, the respondents be directed to release the same.



6. Learned State counsel on instructions from Mr. Gobind Sharma, ADA with Mr. Aman, Assistant T&A submits that the petitioner has to get himself medically examined and the moment the petitioner submits the medical certificate issued by the competent authority, the same will be processed and within a period of six weeks of the receipt of the said medical certificate, the benefit of the commutation of the pension will also be released to the petitioner.

7. Learned counsel for the petitioner at this stage submits that as the benefit of leave encashment has been delayed, the petitioner is entitled for the grant of interest on the said delayed release of the leave encashment. Learned counsel further submits that even the gratuity has also been released after a delay.

8. I have heard learned counsel for the parties and have gone through the record of the case with their able assistance.

9. From the facts narrated hereinbefore, it is clear that certain pensionary benefits of the petitioner were withheld due to the fact that the respondent intended to issue a charge sheet to the petitioner after his retirement. The leave encashment and the gratuity was withheld, and the commutation of pension was also not allowed. Out of the two charge sheets which were issued after the retirement, one has been dropped and in another, the punishment of 10% cut in pension has been imposed for a period of seven years.

10. That being so, once the disciplinary proceedings were pending against the petitioner, the respondent-department was within its jurisdiction to withhold some of the pensionary benefits but, once those disciplinary proceedings had attained finality the respondents were under obligation to release the pensionary benefits forthwith which has not been done in the present case. After the imposition of punishment in one of the chargesheets on 23.08.2022, one chargesheet dated 28.10.2020 remained pending which has also been dropped on



16.01.2023. That being so, there was no impediment in the release of the pensionary benefits. Further, once the allegations in the charge sheet dated 28.10.2020 has not been proved, the pendency of the same cannot be treated against the petitioner so as to deny him the benefit of interest. Hence, after 23.8.2022 the respondent had no valid reason to withhold some of the pensionary benefits and in the present case, the same has been done hence, the petitioner is also held entitled for interest @ 6% per annum from 1.10.2022 onwards till the date of actual release of the leave encashment and the gratuity.

11. With regard to commutation of pension, the respondents, as undertaken, will release commutation of pension in accordance with law after the petitioner submits his medical certificate.

12. The writ petition is disposed of in the above terms.

May 14, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No