



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

CWP-11376-2018

Reserved on : 14.11.2024

Pronounced on : 20.11.2024

Narinder Kumar Kansal

.....Petitioner

V/S

State of Haryana and another

....Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Sandeep Panwar, Advocate for the petitioner.

Mr. Ravi Dutt Sharma, D.A.G., Haryana.

NAMIT KUMAR, J. (ORAL)

1. The petitioner has filed the instant writ petition under Article 227 of the Constitution of India, seeking a writ in nature of certiorari, quashing the impugned charge-sheet dated 26.02.2014 (Annexure P-3), inquiry report dated 29.08.2016 (Annexure P-4) and punishment order dated 05.10.2017 (Annexure P-5). Further, seeking a writ of mandamus, directing the respondents to release interest @ 18% per annum on the delayed payment of gratuity amounting to Rs.9,63,600/- and Commutation of pension amounting to Rs.5,86,640 from its due date till its actual realization.

2. The brief facts, as have been pleaded in the petition, are that the petitioner was appointed as Junior Engineer in Irrigation Department, Haryana on 07.01.1977 and thereafter, promoted as SDO vide order dated 19.03.2013 and retired as such on attaining the age of superannuation on 28.02.2014. However, on the date of his retirement,

he had received a charge-sheet dated 26.02.2014. Due to pendency of

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the said charge-sheet, the retiral dues of the petitioner had been withheld by the respondents. The petitioner had also served a legal notice dated 28.11.2015 to the respondents to release his retiral dues which was replied by the respondents vide letter dated 16.12.2015 stating that due to pendency of enquiry against the petitioner, his retiral dues cannot be released. An enquiry was conducted and he was held guilty vide enquiry report dated 29.08.2016. Thereafter, vide order dated 05.10.2017 passed by the then Principal Secretary to Government of Haryana, Irrigation & Water Resources Department the charge-sheet dated 26.02.2014 was concluded, whereby a punishment of 5% cut in pension for a period of two years starting from 01.07.2017 has been imposed upon the petitioner. Thereafter, the gratuity amounting to Rs.9,63,600/- and commutation of pension amounting to Rs.5,86,640/- have been released to the petitioner on 01.01.2018. However, no interest on the delayed payment of gratuity and commutation of pension has been granted to the petitioner. Hence, the present petition.

3. Learned counsel for the petitioner has submitted that the petitioner has retired from service on attaining the age of superannuation on 28.02.2014 and on the same day he had received charge-sheet dated 26.02.2014 due to which his retiral dues have been withheld by the respondents. The gratuity amounting to Rs.9,63,600/- and commutation of pension amounting to Rs.5,86,640/- have been released to the petitioner on 01.01.2018. Since there is a considerable delay in releasing the gratuity and commutation of pension of the petitioner, therefore, he is entitled for interest on the same.

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4. Per contra, learned State counsel, while referring to the averments made in the reply filed by the respondents, has submitted that the delay occurred in releasing the gratuity and commutation of pension to the petitioner was not intentional as the charge-sheet dated 26.02.2017 was pending against the petitioner which was finally concluded on 05.10.2017 in which the petitioner was held guilty. Since after conclusion of the above-said charge-sheet immediately the gratuity and commutation of pension have been released to the petitioner on 01.01.2018, therefore, he is not entitled for interest on the same.

5. During the course of hearing, learned counsel for the petitioner has restricted his claim qua interest on the retiral dues.

6. I have heard learned counsel for the parties and perused the relevant documents with their able assistance.

7. Admittedly, the petitioner has retired from service on attaining the age of superannuation on 28.02.2014 and at the time of his retirement, charge-sheet dated 26.02.2014 was pending against him. Due to pendency of the said charge-sheet, the respondents withheld part of the retiral dues of the petitioner. The said charge-sheet was concluded vide order dated 05.10.2017, passed by the then Principal Secretary to Government of Haryana, Irrigation & Water Resources Department whereby the petitioner was held guilty and a punishment of 5% cut in pension for a period of two years starting from 01.07.2017 has been imposed upon him. After conclusion of the said charge-sheet, the gratuity amounting to Rs.9,63,600/- and commutation of pension amounting to Rs.5,86,640/- have been released to the petitioner on



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01.01.2018.

8. Since at the time of retirement of the petitioner, charge-sheet dated 26.02.2014 was pending against him in which he was held guilty and punishment of 5% cut in pension for a period of two years starting from 01.07.2017 has been imposed upon him, vide orders dated 05.10.2017, therefore, action of the respondents withholding the retiral dues of the petitioner during the pendency of the said charge-sheet cannot be held to be unjustified and since the petitioner was paid the gratuity amount within three months, therefore, he cannot be held entitled to the interest on the same.

9. So far as the claim of the petitioner for grant of interest on the commutation of pension is concerned, there is no provision in the Commutation Rules which contemplates payment of interest. This view is supported by the judgment of Hon'ble Supreme Court in *Civil Appeal No.1681 of 2019 (Arising Out of SLP(c) No.31739 of 2016) titled as 'Chief General Manager Gujarat Telecom Circle, Bharat Sanchar Nigam Ltd. and others Vs. Manilal Ambalal Patel & another'* decided on 08.03.2019 and judgment of Coordinate Bench of this Court in *CWP No.6990 of 2017 titled as 'Dr. Inderjit Singh Hundal Vs. State of Punjab and others'* decided on 03.04.2017.

10. In view of the above, finding no merits in the present petition, the same is hereby dismissed.

20.11.2024

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(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No