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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-13993-2018
Date of Decision: 22.04.2024

Vinod Kumar Petitioner
Versus

State of Haryana and others Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. S.S. Shekhawat, Advocate,
for the petitioner.

Mr. Gaurav Jindal, Addl. A.G., Haryana.

Mr. Rajesh K. Sheoran, Advocate,
for respondent Nos.2 & 3.

Mr. Prashant Deswal, Advocate for
Mr. Dinesh Arora, Advocate,
for respondent No.4.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *mandamus* for directing the respondents to grant 2nd financial upgradation in the shape of 1st ACP w.e.f. 01.04.1999 in the pay scale of Rs.5000-7850/- and 3rd financial benefit in the shape of 2nd ACP w.e.f. 01.04.2007 of Rs.5450-8000/- of the functional pay scale of Rs.4000-6000/- in terms of the Haryana Government Finance Department Instructions dated 04.03.2014 (Annexure P-4) and to grant balance payment of retiral benefits along with interest with a further prayer to direct the respondents to make the payment of one month salary on account of LTC for the block year 2016-2019.

2. Learned counsel for the petitioner submitted that during the

pendency of the present petition, the 2nd financial upgradation and 3rd financial upgradation in the shape of 2nd ACP has been paid as per the reply filed by the Indian Red Cross Society. He submitted that now the petitioner is entitled for the grant of interest on the delayed payment and referred to Para No.3 of the reply filed by the respondent-Society wherein in a tabulated form, it has been so stated that there was a delay in payment of gratuity, leave encashment and also in the arrears of 2nd ACP, gratuity and leave encashment. He further submitted that the petitioner retired on 30.06.2017 and the initial gratuity and leave encashment for branch of Jhajjar has been paid with a delay of about six months and that of the Rohtak has been paid with a delay of about 1½ years and for arrears of 2nd ACP and arrears of gratuity and leave encashment there has been a delay of about 5 years.

3. On the other hand, learned counsel appearing on behalf of respondent Nos.2 & 3 submitted that the petitioner has already been granted 1st and 2nd ACP as per Rules of 2008 and one month salary on account of LTC has also been paid to him. He further submitted that so far as the delay which has occurred for releasing the gratuity and leave encashment and also the arrears of 2nd ACP, the same was because of poor financial condition of the Society and the Society is in such a bad phase that the salary was not paid to the staff from 7 months. He referred to Para No.3 of the reply which has been reproduced as under:-

“3. That qua second prayer of balance payment of retiral benefits and one month salary on account of LTC it is submitted that answering respondent has now paid all the dues of petitioner including arrear, payment of LTC & the difference of gratuity & leave encashment etc.

as under;

Sr. No.	Particulars	Branch	Date of Payment	Amount
1.	Gratuity & Leave Encashment	Jhajjar	25/01/2018	757016/-
2.	Gratuity & Leave Encashment	Rohtak	28/01/2019	626496/-
3.	Arrear of 2 nd ACP	Jhajjar	29/07/2022	300155/-
4.	Arrear of Gratuity & Leave Encashment	Jhajjar	03/08/2022	44096/-

All payments have credited in Bank Account No.000534001001989 of petitioner.

It is further submitted here that that there was no such delay in payments and all the dues had been released to petitioner and credited in his account, though there is slight delay in making payments which is neither intentional or willful but due to poor financial position of society. Even financial situation of society in such a bad shape that salary was paid to the staff after 7 months.”

4. I have heard the learned counsels for the parties.
5. The only prayer which survives in the present petition is for grant of interest on the delayed payments. There is no dispute that there was a delay in disbursement of the retiral benefits to the petitioner and it is also a settled position of law that mere paucity of funds is no ground for denial of retiral benefits. However, it is the stand of the learned counsel for the respondents that the financial position of the Society is in such a bad shape that even salary of its employees are not being paid for long period of time. This Court had an occasion to deal with this issue of same society in CWP-10631-2023 along with other connected cases wherein the salary of

employees was not paid. This Court is of the considered view that considering the peculiar facts and circumstances of the present case where salaries of the employees, who are working in the respondent-Society have not been paid because of paucity of funds, then at this stage at least it will not be proper for the Court to direct the respondents to grant payment of interest to the petitioner.

6. In view of the aforesaid position, the present petition is disposed of. At this stage, no direction can be issued for grant of interest. However, in future at any point of time, in case the financial position of the concerned Red Cross Society improves, then the petitioner will always be at liberty to make a representation to the respondent-Society for grant of interest on the delayed payment or to file a petition before this Court in this regard in accordance with law.

7. In addition to above, whenever the financial position of the Red Cross Society improves then the Society shall also consider payment of interest on the delayed payment to the petitioner @ 6% per annum (simple) of their own.

22.04.2024 (JASGURPREET SINGH PURI)
Bhumika JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |