



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-20491-2018

Reserved on 31.07.2024
Pronounced on 12.08.2024

Parmal SinghPetitioner

Versus

State of Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Deepanshu Matya, Advocate
for the petitioner.

Mr. Teevar Sharma, AAG, Punjab.

Mr. Tarun Vir Singh Lehal, Advocate
for respondents No.2 and 3.

NAMIT KUMAR J.

1. The petitioner has approached this Court by way of filing the instant writ petition under Articles 226/227 of the Constitution of India seeking a writ of certiorari, quashing the order dated 13.07.2018 (Annexure P-1), vide which the petitioner was not granted his arrears of the salary and the interest was granted to him @ 6% per annum w.e.f. 02.09.2015 till 03.05.2016 only on the amount payable till date. Further seeking a writ of mandamus, directing the respondents to reimburse the arrears of the salary for the period of August 2001 till January 2002 and other dues w.e.f. 31.05.2005 to the petitioner with interest @ 18% per annum till its realization.
2. Brief facts of the case, as have been pleaded in the present petition, are that the petitioner was appointed as a Manager at Markfed, Nawanshehar in the year 1981. In the year 2001, when the petitioner was working as a Senior Manager at Markfed, Jalandhar, he was falsely

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implicated in a case FIR No.43 dated 06.08.2001 registered under the Prevention of Corruption Act, 1988 (hereinafter referred as 'the 1988 Act') at Police Station Vigilance Bureau, Jalandhar. The petitioner remained under suspension w.e.f. August, 2001 to January, 2002. Thereafter, vide judgment dated 31.03.2005 passed by learned Judge, Special Court, Jalandhar, the petitioner was held guilty and convicted for the offence under Section 7 of the 1988 Act and sentenced to undergo rigorous imprisonment for one and a half years and to pay a fine of Rs.2,000/- and in default of payment of fine to further undergo rigorous imprisonment for one and a half months. Thereafter, on 31.05.2005, the petitioner retired as a Senior Manager at Markfed Agro Chemicals, Mohali and his retiral dues and the salary of his suspension period was withheld by the respondent-department due to pendency of criminal case and other departmental proceedings. Against the judgment of conviction and order of sentence dated 31.03.2005 passed by the Trial Court, the petitioner has preferred an appeal bearing CRA-S-730-SB-2005 titled as 'Parmal Singh Vs. State of Punjab' before this Court, which was allowed vide judgment dated 02.09.2015 and the petitioner was acquitted of the charges. After his acquittal, the petitioner moved a representation dated 02.12.2015 to respondent No.2 for releasing his retiral dues and arrears of his salary but the respondents vide order dated 28.07.2016 only released a nominal amount of Rs.6,84,254/- without releasing any arrears of the salary for the period of suspension and without any interest. Thereafter, the petitioner again moved a representation dated 09.09.2016 to respondent No.3 for releasing his arrears of salary and other retirement dues along with interest @ 18%

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per annum but no action was taken on the same. Vide order dated 25.04.2017, respondent No.3 sanctioned to grant interest @ 6% per annum on the retiral dues of the petitioner for the period of only 08 months i.e. w.e.f. 02.09.2015 (i.e. the date of his acquittal) till the date of realization i.e. 03.05.2016. Aggrieved against the said order, the petitioner has approached this Court by filing CWP No.13060 of 2017 titled as 'Parmal Singh Vs. State of Punjab and others' for quashing the orders dated 28.07.2016 and 25.04.2017 passed by the respondent-department vide which the petitioner was not granted his arrears of the salary and the interest was granted to him @ 6% per annum only w.e.f. 02.09.2015 to 03.05.2016 on the amount payable. The said writ petition was disposed of by this Court vide order dated 18.04.2018, with a direction to the respondent-department to consider and decide the representation/claim dated 09.09.2016 within a period of 06 weeks from the date of receipt of certified copy of the order. In pursuance to the order passed by this Court, respondent No.2 passed the impugned order dated 13.07.2018 vide which the claim of the petitioner has been rejected. Hence, this petition.

3. Learned counsel for the petitioner submits that the petitioner retired from service on 31.05.2005 and despite the fact that he was acquitted of the charges by this Court vide judgment dated 02.09.2015, respondent No.2 vide impugned order dated 13.07.2018 denied the arrears of the salary of the petitioner for the suspension period from August, 2001 to January, 2002 and also denied to grant interest on the retirement dues w.e.f. 31.05.2005 i.e. the date of retirement of the petitioner. He further submits that the respondents



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have arbitrarily granted interest on the retiral dues @ 6% per annum for the period of only 08 months w.e.f. 02.09.2015 to 03.05.2016. Since there is a considerable delay in releasing the retiral dues of the petitioner, therefore, the petitioner is entitled for interest on the same w.e.f. the date of his retirement i.e. 31.05.2005. In support of his contentions, learned counsel for the petitioner has placed reliance upon the judgments passed by this Court in ***CWP-21318-2020 titled as 'Om Pal Singh Panwar Vs. Haryana Seeds Development Corporation' decided on 26.02.2024; CWP-7324-2017 titled as 'Avtar Singh Vs. State of Punjab and another' decided on 23.04.2024; CWP-10270-1998 titled as 'Mohinder Singh Yadav Vs. State of Haryana' decided on 03.07.2024; Hukam Singh Vs. State of Haryana and another : 2001(2) S.C.T. 696; CWP-4269-2010 titled as 'Mathura Dass Vs. General Manager Operation and others' decided on 18.04.2011; Maha Singh Vs. State of Haryana : 1994(1) S.C.T. 154 and Des Raj Bhagat Vs. State of Punjab and others : 2016(2) PLR 561*** as well as judgment passed by the Rajasthan High Court in ***Aji Ram Vs. State of Rajasthan and others : 2015(31) SCT 280.***

4. Per contra, learned counsel for contesting respondents No.2 and 3 submitted that at the time of retirement of the petitioner, his retiral dues were withheld by the department due to his conviction in a criminal case and pendency of other departmental proceedings and after his acquittal vide judgment dated 02.09.2015, passed by this Court, the department has released his retiral dues along with interest @ 6% per annum w.e.f. 02.09.2015 (i.e. the date of his acquittal) till the actual date of payment. He further submits that the suspension period of the

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petitioner w.e.f. 06.08.2001 to 28.01.2002 has already been treated as a duty period vide order dated 12.07.2018 passed by respondent No.2 and arrears of salary have already been released to him. Since the petitioner was convicted in a criminal case in which he was acquitted lateron, therefore, he is not entitled for interest on his retiral dues from the date of his retirement as the delay cannot be attributed to the respondents. In support of his contentions, learned counsel for respondents No.2 and 3 has placed reliance upon the judgments passed by this Court in ***CWP-10443-2012 titled as 'M.P. Dogra Vs. Managing Director, Punjab State Cooperative Supply and Marketing Federation Limited' decided on 29.05.2012; CWP-6581-2017 titled as 'Ranjit Singh Vs. Financial Commissioner, Excise and Taxation, Department of Excise and Taxation and others' decided on 10.05.2019 and CWP-6273-1986 titled as 'Boota Ram (Dead) through LRs Vs. Punjab State' decided on 23.01.1996.***

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

6. As per stand taken by respondent-department, during his service the petitioner was involved in the following cases :-

- (1) *SCN No.1624 dated 18.05.2004 regarding embezzlement by Sh. Surinder Singh, Cashier during his tenure as Manager Canneries.*
- (2) *SAR No.381 Jalandhar 7,32,882/- 2000-01.*
- (3) *SAR No.399 Jalandhar 75,90,500/- 2002-04.*
- (4) *Audit Para regarding shortage of Basmati Rice (755.94 Qntls. and 0.84 Qntls.).*
- (5) *Vigilance case FIR No.43 dated 06.08.2001 Rs.7,13,22,588/- PC Act.*

In the vigilance case FIR No.43 dated 06.08.2001 the petitioner was held guilty vide judgment dated 31.03.2005 passed by learned Judge,

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Special Court, Jalandhar and convicted for the offence under Section 7 of the 1988 Act and sentenced to undergo rigorous imprisonment for one and a half year and to pay a fine of Rs.2,000/-. Meanwhile, the petitioner retired from service on 31.05.2005, however, due to his conviction in the abovesaid case and pendency of other departmental proceedings, his retiral dues were withheld by the respondent-department and after his acquittal by this Court vide judgment dated 02.09.2015, his retiral dues were released along with interest @ 6% per annum w.e.f. 02.09.2015 (i.e. the date of his acquittal) till the actual date of payment. The claim of the petitioner for grant of interest w.e.f. his date of retirement has been denied by the respondent-department vide impugned order dated 13.07.2018. The concluding para of the said order reads as under :-

“Further as per his representation dated 9.9.2016, the period of his suspension from 13.8.2001 to 28.2.2002 has been ordered to be treated as duty period and orders in this regard have been issued vide no. 2001 dated 12.07.2018.

I have perused the representation dated 9.9.2016 of the petitioner alongwith office record relating to this case in compliance to orders dated 18.04.2018 passed by the Hon’ble Punjab & Haryana High Court. The retiral dues of Sh. Parmal Singh, Sr. Manager (Retd.) which were withheld on the ground of his conviction in the criminal case alongwith other pending departmental proceeding, has already been released to the petitioner along with interest @ 6% w.e.f. 2.9.2015 i.e. the date when he was acquitted from his charges in the criminal case relying upon the judgment passed by the Hon’ble High Court of Punjab & Haryana in similarly situated case of Markfed official titled as M.P. Dogra Vs. Punjab State Cooperative Supply and Marketing Federation Ltd. in CWP No.10443 of 2012. Therefore, the petitioner is not entitled for the interest as claimed in his representation dated 9.9.2016 (Annexure P-5). Accordingly, representation (Annexure P-5) given by Sh. Parmal Singh, Sr. Manager (Retd.), is disposed of.”



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7. Since when the petitioner retired from service on 31.05.2005, he was already convicted in vigilance case FIR No.43 dated 06.08.2001, vide judgment dated 31.03.2005 passed by learned Special Court, Jalandhar, therefore, action of the respondent-department withholding the retiral dues of the petitioner during the pendency of the appeal filed by the petitioner against his conviction, cannot be held to be unjustified and the petitioner cannot be held entitled to the interest on the retiral dues w.e.f. his date of retirement. Reference in this regard can be made to the judgments passed by this Court in ***M.P. Dogra's and Ranjit Singh's case (supra)***, wherein also the interest has been granted from the date of acquittal and not from the date of retirement.

8. So far as claim of the petitioner for arrears of salary for his suspension period w.e.f. 06.08.2001 to 28.01.2002 is concerned, the said period has already been treated as duty period vide order dated 12.07.2018 passed by respondent No.2 and arrears of pay for the said period have already been released to the petitioner.

9. The judgments cited by learned counsel for the petitioner are not applicable and clearly distinguishable to the facts of the present case. In ***Om Pal Singh Panwar's case (supra)***, the interest was granted on delayed payment of gratuity to thse petitioner but the facts of the said case are based upon different footing. Petitioner therein was superannuated on 30.11.2013 and thereafter re-engaged for one month. After the period of retirement and during the period of re-engagement, an FIR was lodged against him for bungling of 360 quintals of seeds. The Court was of the opinion that FIR was registered against the petitioner after his superannuation in which he was subsequently



acquitted. No conscious decision with regard to payment of gratuity was taken under the payment of Gratuity Act and once gratuity was released by the department, therefore, they were liable to pay interest thereupon. But in the present case, petitioner was convicted prior to his retirement although his appeal was allowed on 02.09.2015 and accordingly his retiral dues were released along with interest @ 6% per annum w.e.f. 02.09.2015 (i.e. the date of his acquittal) till the actual date of payment. This judgment has no application to the facts of the present case. Equally distinguishable are the judgments of this Court in *Avtar Singh's case (supra)*, *Mohinder Singh Yadav's case (supra)*, *Hukam Singh's case (supra)*, *Mathura Dass's case (supra)*, *Maha Singh's case (supra)* and *Des Raj's case (supra)* as well as the judgment passed by Rajasthan High Court in *Aji Ram's case (supra)*.

10. In view of above, there is no illegality or infirmity in the impugned order dated 13.07.2018 (Annexure P-1) passed by respondent No.2 and warranted no interference by this Court.

11. Finding no merit in the instant petition, the same is consequently, dismissed.

12.08.2024
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(NAMIT KUMAR)
JUDGE

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