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

113 **CWP-19939-2024**
Date of Decision:20.08.2024

SHASHI GULATI **…Petitioner(s)**

Versus

STATE OF HARYANA AND OTHERS **…Respondent(s)**

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Abhilaksh Grover, Advocate
for the petitioner.

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TRIBHUVAN DAHIYA, J. (Oral)

This petition has been filed, *inter alia*, seeking a writ of *certiorari* quashing the order dated 23.07.2024, Annexure P-23, passed by the fourth respondent/Educational Tribunal, as also the order dated 11.10.2017, Annexure P-16, passed by the second respondent, whereby petitioner’s claim for grant of interest on retiral dues paid to her after considerable delay, has been rejected.

2. Learned counsel has contended that the petitioner superannuated from service on 30.09.2014, after working as an Associate Professor in the aided College being run by the third respondent/Governing body. She was not given the retiral benefits on time which were finally released after a delay of about one and a half years on 09.02.2016. Accordingly, she is entitled to payment of interest for the inordinate delay in releasing these benefits. The impugned judgment has been passed by wrongly recording that as the due amount of ₹2,750 was paid by the petitioner only on 09.02.2016, the benefits

could have been released to her only thereafter and there was no delay on the respondents' part. In fact, the respondents' pleaded case was, the petitioner had to deposit a sum of ₹23,446 on 09.02.2016, which showed she did not hand over the charge on the date of superannuation; and was never issued 'No Due Certificate' from different quarters. This stand was also not correct as the said amount had been paid by the petitioner on 30.08.2014 itself. She, however could not establish the fact before the Tribunal by filing replication, since the earlier Civil Writ Petition No.10841 of 2015, filed by her claiming interest on the delayed retiral benefits, had been remanded to the Tribunal, and vide short order dated 02.07.2019, Annexure P-19, it summoned the parties through notices and proceeded to decide the matter finally. This prevented the petitioner from placing the relevant facts on record.

3. The submissions made by learned counsel have been considered.

4. It is apparent from the impugned order dated 11.10.2017, that the reason for not releasing retiral benefits to the petitioner was her failure to hand-over the charge to Head of the Department at the time of superannuation. The charge was finally handed over on 09.02.2016, and the benefits were released to her thereafter on different dates, i.e., 05.07.2016; 14.07.2016; and 16.07.2016. Further, the petitioner had ample opportunity to bring the relevant facts on record, including that the amount claimed from her as on 09.02.2016 already stood deposited, but she failed to do so. Remand of the matter did not in any manner prevent her from filing the replication and/or placing the relevant facts on record during the period it remained pending before the Tribunal from 02.07.2019 till its final disposal on 23.07.2024. Learned counsel could not refer to any material establishing that the petitioner ever tried to place additional facts on record to contradict the respondents'

stand. Therefore, at this stage, when the matter has already been finally adjudicated by the Tribunal, she cannot be permitted to place any additional fact on record and seek fresh adjudication on that basis. Still further, it was admitted by learned counsel representing the petitioner before the Tribunal that the outstanding amount was cleared by her only on 09.02.2016. In this factual background, it cannot be said that there was any delay on the respondents' part to release the due retiral benefits.

5. All these aspects have been duly considered by the Tribunal in the impugned judgment; relevant paragraphs whereof read as under:

> 8. This contention of the appellant is belied from the records. The letters Annexure P-2 to P-5 which have been produced by the appellant herself indicate that the respondent no. 2 - College had directed other Lecturers to take charge from her post her retirement as she had left without handing it over and clearing her dues. In all these letters the appellant had also been asked to deliver charge to the deputed Lecturer. For reasons best known to the appellant herself, she did not clear her dues and did not deliver her required documents to the College. Vide letters Annexure P-8 dated 17.11.2014 and Annexure P-10 dated 29.12.2014, the Principal of the Mahila Mahavidyalaya, Kaithal had asked the appellant yet again to furnish the requisite documents and formalities for enabling them to send her pension case to the Director General Office, Panchkula. A similar letter dated 24.02.2015, Annexure P-12, was issued by the office of DHE. Despite the issuance of these letters, she did not do the needful.

9. The appellant had instituted a Civil Writ Petition No.10841/2015 seeking the relief of release of her retiral benefits alongwith interest in which she was directed by the Hon'ble Court to complete the requisite formalities as she had not done the needful. It was thereafter that the instant appellant handed over charge of the articles on 09.02.2016 and thereafter, her case was immediately sent to the office of the DHE. Copy of the list of the articles for which she had paid Rs.2750/- on 09.02.2016 had also been placed on record as Annexure R2/4. In this regard the order dated 11.03.2016 (Annexure R2/6) passed by the Hon'ble High Court is significant where the instant respondent No.2 had intimated the Hon'ble High Court that pursuant to the order dated 08.02.2016 passed by the said Court, the case of the instant appellant had been forwarded to the office of the DHE on 09.03.2016.

The retiral benefits were duly paid to the appellant during the pendency of the aforesaid Writ Petition No.10841/2015. It was argued on behalf of the instant appellant in those proceedings that the said payment had not been paid within the prescribed period and there was a delay in the payment. The Hon'ble High Court disposed the said Writ Petition directing the respondent No.2 - College to consider her claim regarding payment of interest on delayed payments within a period of three months and in case, her claim with regard to interest was found genuine and valid, it was further directed that the payment thereof be made within a reasonable period.

Pursuant to the above order, the matter was duly looked into and vide letter dated 11.10.2017, Annexure P-16, the appellant was intimated that since she had not handed over charge of her department to the College, due to which her case could not be sent to the office of the DHE and it was only under orders of the Court that she had handed over charge on 09.02.2016 whereafter her case was immediately sent to the Government without any delay. Therefore, no interest was to be paid to her by the said Institution.

It is in this backdrop that she has filed the instant proceedings (originally filed as a Writ Petition before the Hon'ble High Court) for grant of payment of interest on delayed release of retiral benefits. There is clearly no delay in the release of the same on the part of any respondent.

11. While addressing arguments before this Tribunal, the same averments have been repeated on behalf of the appellant that the respondents were negligent in releasing her retiral benefits on time and therefore, she was entitled to interest on the delayed payment. When the learned counsel for the appellant was specifically questioned about the payment of dues made by the appellant on 09.02.2016 under directions of the Hon'ble High Court, the learned counsel tried to lightly brush it aside by claiming that it was a paltry amount of Rs.2750/- and that too was a fabricated amount. No material in support of such a contention is available on record. Therefore, this Tribunal does

not find itself in conformity with the arguments advanced on behalf of the appellant.

6. Accordingly, the appeal was dismissed by the Tribunal with costs, and special costs of ₹10,000 payable to the second respondent within one month. There is no error of law or infirmity in the impugned judgment, except the direction burdening the petitioner with special costs. No reasons have been recorded for imposing the same. The petitioner had earlier approached this Court by filing a writ petition, *inter alia*, seeking interest on the delayed payment of retiral benefits, and the matter was remanded to the Tribunal. Besides, she is not accused of misleading the Court/Tribunal or bringing any wrong facts on record. Therefore, there is no justification to impose special costs on her.

7. In view thereof, the petition is disposed of by modifying the impugned judgment, dated 23.07.2024, only to the extent that special costs of ₹10,000 shall not be payable by the petitioner.

(TRIBHUVAN DAHIYA)
JUDGE

20.08.2024
Ad

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