124 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-11978-2025
Date of Decision: 30.04.2025

ARVIND KUMAR YADAV ... PETITIONER

VS.

STATE OF HARYANA AND OTHERS ... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Vijay Pal, Advocate
for the petitioner.

Mr. Harish Rathee, Senior Deputy Advocate General, Haryana.

TRIBHUVAN DAHIYA , J.(ORAL)

The petition has been filed, *inter alia*, seeking a writ of *certiorari* quashing order dated 29.07.2024, Annexure P-10, to the extent the petitioner has been declined interest on the delayed payment of leave encashment and Leave Travel Concession (LTC) from the date of superannuation, i.e., 31.08.2020.

2. Learned counsel for the petitioner contends that the petitioner superannuated from service on 31.08.2020. At that time no disciplinary proceedings were pending against him and, accordingly, all pensionary benefits were released to him except leave encashment and LTC without citing any reason; LTC was later released on 06.07.2021, i.e., after a period of 10 months and 16 days, and leave encashment on 07.02.2024, i.e., after a period of 03 years, 05 months and 7 days. His claim for grant of interest on the delayed payment has been partly declined vide impugned order dated 29.07.2024, Annexure P-10, with the following reasons:

> Whereas charges against the petitioner were duly proved by the regular inquiry Officer vide his report dated 06.10.2022. Thereafter, he was accorded personal hearing by the competent authority on 30.05.2023 wherein after due consideration of report of regular inquiry officer and submissions made by petitioner during the course of hearing, the competent authority inflicted a punishment of withholding of pension of Rs. 5,000/- for a period of one month against the petitioner vide order No. 6/52-2021 HRG-1 (1) dated 29.07.2023.
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> Whereas, all retiral benefits except leave encashment has been released in the favour of petitioner after his retirement vide order dated 11.11.2020. Since, petitioner was involved in a matter of financial irregularities amounting Rs.201573/-, therefore, leave encashment was withheld.
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> Whereas, as soon as the disciplinary proceedings concluded against the petitioner, entire amount of leave encashment of Rs. 10, 80,350/- was released vide order dated 16.02.2024 in favour of petitioner.
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> Keeping in view of the above-said facts and circumstances, it is observed that the petitioner is himself in default hiding the actual material facts of his pending disciplinary proceedings. Besides that the matter of petitioner always remained under active consideration by the department. Delay in granting him the same is due to pending disciplinary proceedings against him that itself concluded in the year 2023 i.e. 29.07.2023/02.08.2023.
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> Therefore, the petitioner's claim as prayed in the representation is not tenable and he is only entitled for the simple interest on amount of GPF as per Rule 79 of HCS (Pension) Rules, 2016 only prevailing rate from 03.08.2023 to 06.02.2024. Hence, the claim of the petitioner is hereby settled.

Learned counsel further contends that the ground of denying interest from the date of superannuation is not sustainable as per Rule 69 of the Haryana

Civil Services (Leave), Rules, 2016. The respondents were competent to withhold the said benefits only if disciplinary or criminal proceedings were pending against the petitioner at the time of retirement, which was not the case.

3. Learned State counsel, on the contrary, contends that the petitioner is not entitled to interest on the delayed payment of the benefits because he was issued a chargesheet on 14.04.2022. The issuance of chargesheet is a reason enough to establish that at the time of retirement also disciplinary proceedings were under contemplation which disentitled him to interest on the delayed payment.

4. Heard.

5. Rule 69 of the Haryana Civil Services (Leave), Rules, 2016 reads as under:

> The authority competent to sanction leave may withhold whole or part of cash equivalent of leave salary in lieu of unutilized earned leave in the case of a Government employee, who retired from service while under suspension or against whom disciplinary or criminal proceedings are pending at the time of retirement or quitting service, if in the view of such authority there is a possibility of some money becoming recoverable from him on the conclusion of the proceedings against him. On the conclusion of the proceedings he shall become eligible to the amount so withheld after adjustment of Government dues, if any. In cases where disciplinary or criminal proceedings in case of grave misconduct are likely to result in withholding of pension in full, no amount of leave encashment shall be paid until conclusion of such proceedings.

6. Perusal of abovesaid rule makes it apparent that the only situation in which the dues of leave salary can be withheld is pendency of

disciplinary or criminal proceedings against the employee at the time of retirement or quitting service; or being under suspension while retiring. Concededly, the petitioner superannuated from service on 31.08.2020 and was not under suspension; he was chargesheeted later on 14.04.2022. Accordingly, on the date of superannuation no criminal or disciplinary proceedings were pending against him. Mere contemplation to initiate disciplinary proceedings cannot be a ground to withhold due benefits as it only amounts to pondering over the matter to take a decision. Unless a decision is arrived at leading to concrete action in the form of suspension or chargesheet, the consequential action of withholding the benefits, which has serious consequences, cannot be taken. Therefore, there was no basis for the respondents to decline interest to the petitioner on the delayed payment of leave encashment from the date of his retirement, i.e., 31.08.2020, as the same could not have been withheld. Further, the basis to withhold the benefit of LTC has not even been cited by the respondents.

7. The petition is accordingly allowed, and the respondents are directed to pay interest to the petitioner on the delayed payment of leave encashment amounting to ₹10,80,350 and LTC amounting to ₹1,19,925 with effect from 31.08.2020 to 02.08.2023, at the rate of nine per cent per annum. The amount be released within four weeks of receiving a certified copy of the order.

30.04.2025 **(TRIBHUVAN DAHIYA)**
Smriti/Maninder **JUDGE**

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No