



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

232

CWP-22276-2020

Date of Decision: 05.02.2025

Bal Singh Chauhan

.....Petitioner(s)

Versus

Uttar Haryana Bijli Vitran Nigam and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Kanwal Goyal, Advocate,
and Ms. Sheena Dahiya, Advocate, for the applicant-petitioner.

Mr. Samarth Sagar, Advocate,
for the respondents.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition filed under Article 226 of the Constitution of India is seeking direction to respondent to grant him third Assured Career Progression (ACP), benefit of 2 years additional service tenure and interest on delayed payment of retiral dues.

2. The petitioner retired on 31.03.2020. He is claiming that as per provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 2016 (in short '2016 Act'), he was entitled to two years additional service tenure. He was made to retire on attaining the age of 58 years whereas he was entitled to serve till 60 years.

3. The extended period of two years has already passed away.

4. In view of changed facts and circumstances, this Court does not find it appropriate to extend said benefit to the petitioner.



5. The petitioner is claiming third ACP. Learned counsel for the petitioner submits that as per instructions dated 14.08.2024 issued by respondent, the typing test has been exempted for the officials who have retired or expired upto 31.03.2024. Thus, he is entitled to third ACP.

6. Mr. Samarth Sagar submits that competent authority would re-examine claim of petitioner in the light of aforesaid instructions.

7. The petitioner is further claiming interest on delayed payment of retiral dues.

8. A Full Bench of this Court in ***A.J. Randhawa, Supg. Engineer (Retd.) vs. State of Punjab, 1997 SCC OnLine P&H 705*** has adverted with an identical issue and held that an employee normally would be paid retiral benefits within two months and in case of payment beyond two months, he shall be entitled to interest. The relevant extracts of the said judgment read as:

“9. Since a Government employee on his retirement becomes immediately entitled to pension and other benefits in terms of the Pension Rules, a duty is simultaneously cast on the State to ensure the disbursement of pension and other benefits to the retiree in proper time. As to what is proper time will depend on the facts and circumstances of each case but normally it would not exceed two months from the date of retirement which time limit has been laid down by the Apex Court in M. Padmanabhan Nair case [1985 (2) L.L.N. 18] (vide supra). If the State commits any default in the performance of its duty thereby denying to the retiree the benefit of the immediate use of his money, there is no gainsaying the fact that he gets a right to be compensated and, in our opinion, the only way to compensate him is to pay him interest for the period of delay on the amount as was due to him on the date of his retirement. Again, as to



what should be the rate of interest, it should, in our view, be generally 12 per cent unless the circumstances of a particular case warrant the payment of a higher rate which may extend to even 18 per cent.”

9. The Apex Court in ***S.K. Dua vs. State of Haryana, (2008) 3 SCC 44*** has clearly held that an employee can claim interest in terms of Part III of Constitution of India. The relevant extracts of the said judgment read as:

“13. Having heard the learned counsel for the parties, in our opinion, the appeal deserves to be partly allowed. It is not in dispute by and between the parties that the appellant retired from service on 30-6-1998. It is also undisputed that at the time of retirement from service, the appellant had completed more than three decades in government service. Obviously, therefore, he was entitled to retiral benefits in accordance with law. True it is that certain charge-sheets/show-cause notices were issued against him and the appellant was called upon to show cause why disciplinary proceedings should not be initiated against him. It is, however, the case of the appellant that all those actions had been taken at the instance of Mr Quraishi against whom serious allegations of malpractices and misconduct had been levelled by the appellant which resulted in removal of Mr Quraishi from the post of Secretary, Irrigation. The said Mr Quraishi then became Principal Secretary to the Chief Minister. Immediately thereafter charge-sheets were issued to the appellant and proceedings were initiated against him. The fact remains that proceedings were finally dropped and all retiral benefits were extended to the appellant. But it also cannot be denied that those benefits were given to the appellant after four years.

14. In the circumstances, prima facie, we are of the view that the grievance voiced by the appellant appears to be well founded that he would be entitled to interest on such



benefits. If there are statutory rules occupying the field, the appellant could claim payment of interest relying on such rules. If there are administrative instructions, guidelines or norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in absence of statutory rules, administrative instructions or guidelines, an employee can claim interest under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution. The submission of the learned counsel for the appellant, that retiral benefits are not in the nature of “bounty” is, in our opinion, well founded and needs no authority in support thereof. In that view of the matter, in our considered opinion, the High Court was not right in dismissing the petition in limine even without issuing notice to the respondents.”

10. In the wake of aforesaid judgments, it is quite evident that an employee is entitled to interest if payment of retiral dues is made beyond two months from the date of retirement. In view of changed rate of interest granted by banks, at present an employee cannot be granted interest beyond 6% per annum.

11. In view of above facts and findings, it is hereby held that the petitioner is entitled to interest @ 6% per annum on delayed payment of pension, commutation of pension, gratuity and leave encashment. The period of interest would run from 01.06.2020 to the date of payment.

12. Let the needful be done within 3 months from today.

13. Disposed of in above terms.

05.02.2025
shivani

(JAGMOHAN BANSAL)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No