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

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**CWP-19472-2023**
**Date of decision: 06.03.2025**

JAGDEV SINGH ......Petitioner

VERSUS

STATE OF HARYANA AND OTHERS .......Respondents

**CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ**

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Present: - Mr. Rajender Singh Malik, Advocate for the petitioner.

Mr. P.C. Goyal, Addl. A.G. Haryana.

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**VINOD S. BHARDWAJ, J. (Oral)**

Challenging the order dated 02.05.2023 (Annexure P-9) passed by respondent No.3-Chief Engineer, Haryana, Public Health Engineering Department, Panchkula declining the claim of the petitioner for award of interest for the late payment of suspension allowance and retiral benefits DCRG, Leave Encashment and Arrear of Pension, the present writ petition has been filed.

2. Learned Counsel appearing on behalf of the petitioner contends that the petitioner was appointed as a Clerk with the respondent-Department on 27.05.1996 and thereafter promoted as Sub-Division Clerk in the year 2011. He was later promoted to the post of Assistant in 2017 and he eventually superannuated on 31.10.2018. He submits that the petitioner was,

however, implicated in FIR No. 3 dated 07.01.2016 registered under Sections 7/13 of the Prevention of Corruption Act, 1988. The respondent Department also issued a charge-sheet to the petitioner on 27.05.2016 on the same set of allegations qua which the FIR had been registered. The petitioner was acquitted by the trial Court vide judgment dated 02.11.2017. It is stated that during the pendency of the criminal proceedings the petitioner had been suspended w.e.f. 07.01.2016 till further orders and he was held entitled to subsistence allowance, as admissible under Rule 7.2 of Punjab Civil Services Rules, Vol.1, Part-1. It is stated that the petitioner was reinstated into service due to his date of superannuation, subject to final outcome of his hearing on the charge-sheet, on 31.10.2018 and he retired there from on the said date.

3. The departmental proceedings initiated vide charge sheet dated 27.05.2016 under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987 were completed on 17.11.2022 by the Chief Engineer, Haryana, Public Health Engineering Department, Panchkula and the inquiry report was ordered to be filed so as to meet the ends of justice. The respondent No.2 thereafter passed an order that the suspension period of the petitioner from 07.01.2016 to 31.10.2018 be treated as a duty period for all intents and purposes and admissible under Rule 89 of the Haryana Civil Services and General Rules, 2016.

4. The petitioner thereafter submitted a representation to the respondent-authorities for award of interest on delayed release of the retiral benefits to the petitioner, however, the said representation of the petitioner

had been rejected by the respondents vide order dated 02.05.2023. The operative part of the impugned order reads thus:-

> ***Subject :- Estt. Clerical- Sh. Jadev Singh, Assistant (Retd.) claim for late payment.***
>
> *Reference to your office memo No. 1657 dated 13.04.2023, on the subjected noted above.*
>
> *In this regard, it is intimated that the representation/application of Sh. Jagdev Singh, Assistant (Retd.) for claim late payment, has been considered by the competent authority and rejected.*
>
> *As per rule-79 sub rule 6(ii) of HCS(Pension) rules, 2016 and punishment order of the retired official, is not admissible for the interest on late payment.*
>
> *This is for your information and taking further necessary action.*

5. Learned Counsel appearing on behalf of the petitioner contends that the rejection of the claim of the petitioner for interest has been declined due to misreading and misunderstanding of the statutory provisions and that the circumstances of the case undisputedly entitled the petitioner to the grant of interest, as per Rule 79 Sub Rule 1 of the Haryana Civil Services (Pension) Rules, 2016.

6. Learned State Counsel, however, submits that the petitioner was accused in a criminal case-FIR No. 3 dated 07.01.2016 which was registered against him under Sections 7 & 13 of the Prevention of Corruption Act,

1988 at Police Station, State Vigilance Bureau, Rohtak. He submits that in the said proceedings, the petitioner was acquitted on being given a benefit of doubt and that prior thereto he had to be reinstated in service solely for technical reasons and due to his date of superannuation but the reinstatement was subject to the final outcome of the pending charge sheet and appeal filed by the State Vigilance Bureau. It was vide order dated 17.11.2022 that the department had decided to file the departmental charge sheet served upon the petitioner under Rule 7 of Haryana Civil Services (Punishment and Appeal) Rules, 1987 and that all the retiral benefits including the gratuity, GPF, Leave Encashment and GIS already stand released to the petitioner within the prescribed time and the other benefits have also been released. Subsequently, even other benefits admissible after calculating the deemed date of promotion in the matrix level-6, the revised leave encashment arrears have also been released to him. He makes a special reference to the note to Sub Rule 6 of Rule 79 of the Haryana Civil Services (Pension) Rules, 2016.

7. No other argument has been advanced by the Counsel for the respective parties.

8. I have heard learned Counsel appearing on behalf of the respective parties and have gone through the documents appended alongwith the present writ petition.

9. The undisputed facts which emerge in the present case are that the petitioner superannuated on 31.10.2018 and that at the relevant point of time he was not facing criminal prosecution but only the departmental proceedings since a charge sheet dated 27.05.2016 had been served. It

further remains uncontroverted that the petitioner was acquitted by the trial Court vide judgment dated 02.11.2017. The case in hand would thus call for the interpretation and provisions of Rule 79 and especially Sub Rule 6. The relevant extract of the Rules reads thus:

> *79. Interest on delayed payment of pension and death-cum-retirement gratuity:-*
>
> *1) No interest shall be payable if the payment of pension and/or death-cum-retirement gratuity of superannuation retirement have been authorized within three months and in other kind of retirement within six months from the date of retirement or from the date the procedure laid down in this chapter is complied with by the retiring Government employee/family of deceased Government employee, whichever is later. Where the pensionary benefits are authorised after the prescribed period and the delay in authorization was attributable to administrative lapse, simple interest as of General Provident Fund beyond the prescribed period shall be paid. However, no interest shall be paid where the delay in authorization has been caused due to failure on the part of the retiring Government employee or the family of deceased or disappeared Government employee to comply with the procedure laid down in this chapter.*
>
> *(2) Every case of delayed authorization of pension and/or death-cum-retirement gratuity shall be considered by the Administrative Department. Where the Head of Department is satisfied that the delay in the authorization of pension and/or death-cum-retirement gratuity was caused on account of administrative lapse, he shall make*

*a recommendation to the Administrative Department for the payment of interest.*

*(3) If the recommendation of the Department made under sub-rule (2) is accepted by the Administrative Department, it shall issue Governor's sanction for the payment of interest.*

*(4) In all cases where the payment of interest has been authorised by the Administrative Department, the Department concerned shall fix the responsibility and initiate disciplinary proceedings against the Government employee(s) concerned who are found responsible for the delay in the authorization of pensionary benefits. The expenditure of interest shall be recovered from the erring Government employee(s).*

*(5) No interest on the arrears of pensionary benefits shall be paid, if the pensionary benefits are revised retrospectively as a result of Government's decision taken subsequent to the retirement of a Government employee on account of-*

*(a) grant of emoluments higher than the emoluments on which pensionary benefits, already paid, were determined; or*

*(b) liberalisation in the provisions of these rules from a date prior to the date of retirement of the Government employee concerned.*

*(6) Where the Government employee against whom disciplinary proceedings are pending at the time of retirement and-*

*(i) he is clearly exonerated and steered clear of all the charges during the process of disciplinary proceedings*

> *and proved innocent, the pension and death-cum-retirement gratuity due to him shall be paid alongwith interest as per provisions laid down in sub-rule (1).*
>
> *(ii) he is held guilty, partially or fully, of the charges leveled against him, or the same are dropped on account of lack of evidence, i.e. he is not proved innocent, or disciplinary proceedings are dropped only on the grounds that the Government employee has retired, no interest shall be payable on the pension and death-cum-retirement gratuity if the same have been authorized within three months from the date of final decision on the disciplinary proceedings. In case of delay, interest shall be regulated as per provision laid down in sub-rule (1) for the delayed period.*
>
> *Note,- Where punishment awarded by the punishing authority is set aside by the Court of law due to lack of evidence or by giving the benefit of doubt, in such cases the interest on delayed payment of pensionary benefits shall not be admissible.*

10. After going through the aforesaid Rules, that a Government employee against whom disciplinary proceedings are pending at the time of the retirement is entitled to claim interest as per Rule laid down in Sub Rule 1 and in the event of being steered clear of all charges during the disciplinary proceedings and having been proved innocent. Further, Sub Rule 6 contemplates a situation where the punishment awarded by the punishing authority is set aside by the Court of law by giving a benefit of doubt, in such circumstances interest of delayed payment is inadmissible.

11. Learned State Counsel has although laid much emphasis to contend that the petitioner was granted benefit of doubt by the trial Court and as such, he is not entitled to the benefit of interest on delayed release of the pensionary benefits, however, I am of the opinion that the aforesaid interpretation and conclusion drawn by the respondent-State is misconceived. The said note does not deal with the final outcome of the criminal proceedings rather, it confines itself into a situation where an order of punishment imposed by the departmental authorities is set aside by a Court of law by giving the delinquent employee a benefit of doubt. The proceedings initiated by the trial Court in a criminal case registered against an employee cannot be perceived as a proceeding arising from an act of the punishing authority or an order of punishment so imposed. In the present case, the respondent-State punishing authority itself took a decision to drop the charges against the petitioner. Hence, the interpretation as sought to be derived from the note and as relied upon by the respondents is not a correct reading of the said note and the conclusions drawn by the respondents are thus based upon misinterpretation.

12. It is also significant to also observe that the petitioner had already been acquitted by the trial Court vide judgment dated 02.11.2017 whereas he superannuated on 31.10.2018 i.e. after approximately one year of acquittal.

13. So far as the aspect of award of interest on the delayed release of the retrial dues is concerned, the question of being proved innocent on its own merit is not even stipulated under Sub Rule 6 (i) and even there, the

expression "proved innocent" is to be read in the context of disciplinary proceedings initiated by the respondent-authorities. It seems that the respondent-authorities are equating the disciplinary proceedings with the criminal proceedings before a trial Court, which amounts to reading a provision in a statutory rule that does not exist. Rule 79 Sub Rule 6 confines itself only to the disciplinary proceedings initiated by and/or the orders passed by the disciplinary authorities on the departmental side that had been initiated by them.

14. Since in the present case the punishing authority never passed any order imposing punishment and decided to drop all the charges, hence, Sub Clause (i) of Sub Rule 6 of Rule 79 would come into operation. The petitioner is thus entitled to interest on the delayed release of the retiral benefits.

15. The present writ petition is accordingly allowed. The respondent-authorities are directed to decide the claim of the petitioner for award of interest in terms of the rate of interest as approved. Let the above said exercise be completed by the respondents within a period of three months of receipt of certified copy of this order and the financial benefits to which the petitioner becomes entitled be released within a further period of two months thereafter.

**(VINOD S. BHARDWAJ)**
**JUDGE**

**MARCH 06, 2025**
*Vishal Sharma*

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