(2010) 10 P&H CK 0039

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 7674 of 2009

Dharam Singh Hooda APPELLANT

Vs

State of Haryana and others RESPONDENT

Date of Decision : 07-10-2010

Acts Referred:

Haryana Civil Services (Punishment and Appeal) Rules, 1987 — Rule 7

Citation : (2011) 163 PLR 262

Hon'ble Judges : Ranjit Singh, J

Bench : Single Bench

Judgement

Ranjit Singh, J.—Having appointed as a Clerk in the year 1969, the petitioner was promoted to the rank of Chief Accounts Officer in the year 1999. He happened to be member of Tenders Opening Committee for opening the tenders for printing & supply of books in the year 1999. An inquiry was held by the Vigilance Department Haryana, on the basis of certain allegations made against the petitioner. The petitioner was placed under suspension on 11.11.2202 and the Director, Treasuries and Accounts Department asked for initiating proceedings against him under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987. However, respondent No.4 in return replied that no charge is made out against the petitioner. In the meantime, the petitioner also became due for superannuation. His suspension was revoked and he was reinstated on 17.6.2005. The petitioner retired on 30.11.2006 on completion of 55 years of age.

2. The petitioner made request for release of his retiral benefits and had even approached this Court by filing CWP No.14602 of 2007. The said writ petition was disposed of with a direction to the respondents to decide the legal notice served by the petitioner within a period of 4 months. Respondent No.1 thereafter, took a view that it was difficult to take decision regarding regularization of the suspension period of the petitioner in view of the pending CBI inquiry. The delay to release the remaining benefits was on account of the loss of service book.

Finally, Central Bureau of Investigation had intimated respondent No.1 through letter dated 28.7.2008 that no evidence could be collected against the petitioner. The petitioner, thereafter, approached the respondents for release of his pensionary benefits and for regularization of his period of suspension. He also sought fixation of his pay. The pay of the petitioner was fixed w.e.f. 1.2.2001 to 1.9.2006 and certain pensionary benefits were released.

3. The petitioner has now filed this writ petition claiming interest on the delayed payment of pensionary benefits. The petitioner has claimed that the following amounts were due to him, which were released to him with delay:-

"i) Arrears of pay and allowances for the suspension period;

ii) Other necessary consequential benefits flowing from regularization of suspension period;

iii) Interest on the delayed payment of above said dues @ 18% P.A. from the date of joining i.e. 22.6.2005 till actual payment of said dues;

iv) Payment of penal interest @i 18% p.a. on inordinately delayed payment of leave encashment w.e.f. the date of retirement i.e., 30.11.2006 till actual date of payment i.e. 25.4.2007;

v) Penal interest @18% p.a. on inordinately delayed payment of arrears of pension w.e.f. from date of retirement till date of actual payment;

vi) Penal interest @ 18% p.a. on inordinately delayed payment of commutation of pension w.e.f. from date of retirement till date of actual payment;

vii) Withheld gratuity with penal interest @18% p.a. w.e.f. date of retirement till date of actual payment; and

viii) Penal interest @18% p.a. on the inordinately delayed payment of only a Gratuity w.e.f. date of retirement till the date of actual payment."

4. As per the reply filed, it is stated that CBI inquiry was pending against the petitioner and ultimately it was decided to count the suspension period from 12.11.2002 to 21.6.2005 as duty period for all intents and purposes. On this account, the arrears of Rs. 1,64,882/- payable to the petitioner were released on 1.9.2009. It is further stated in the reply that payment of Rs.4,21,208/- was released to the petitioner on account of arrears of pension on 6.11.2008. A sum of Rs.3,35.000/- was also released on the same date as the gratuity, which was payable to the petitioner.

5. The explanation offered by the respondents to explain the delayed payment of pensionary benefits, apparently, is not justified. The delay to regularize the period of suspension may be justified due to pending CBI inquiry, but once the petitioner has been exonerated and no charge was preferred against him, the withholding of substantial amount due to him may not be justified. There may be some justification for finalizing the period of suspension upon completion of CBI

inquiry, but virtually the action of the respondents in withholding the gratuity and arrears of pension, which have not been paid to him, would not be justified. This aspect is also required to be analyzed in the light of the policy instructions issued by the Government, where it has specifically been provided that when a Government employee is exonerated in the departmental or other proceedings pending against him without taking any action, then the retiral benefits, which had been withheld, are required to be released to him with interest.

6. Accordingly, the petitioner is held entitled to the interest on the delayed payment of arrears of pension and gratuity @ 8% per annum from the date these were due to the date of payment. It may not be proper to allow any interest on the arrears of pay for the period he had remained under suspension.

The writ petition is, accordingly, disposed of.