
(2010) 08 P&H CK 0285
In the Punjab And Haryana At Chandigarh

Dr. M.L. Bansal

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 02-08-2010

Acts Referred:

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

Citation : (2010) 08 P&H CK 0285

Hon'ble Judges : M.M. Kumar, J;A.N. Jindal, J

Bench : Division Bench

Judgement

M.M. Kumar, J.—The instant appeal filed under Clause X of the Letters Patent, is directed against order dated 25.11.2009, passed by the learned Single Judge in CWP No. 17945 of 2009, relegating the appellant to the remedy of filing a civil suit with regard to delay in releasing the pensionary benefits.

2. It is appropriate to mention that the appellant has approached this Court claiming interest on the delayed payment of pensionary benefits. He has sought pre-mature retirement and eventually served a three months legal notice dated 10.7.2006. Accordingly, he was given voluntary retirement w.e.f. 31.12.2007, subject to the inquiry which was pending under Rule 7 of the Haryana Civil Services (Punishment and Appeal) Rules, 1987 (for brevity, "the Rules"). The charges levelled against the appellant were dropped as there was no complaint, witness and evidence against him. The appellant has claimed that there is delay in making payment of various retiral benefits, which is sought to be explained with the help of the following table:

Sr.	Date of Pensionary	Date on No. of Amount	Amount No. retirement which years and paid for of pensionary days the interest benefit pensionary pensionary payable was given benefit was benefit on delay given (Rs.) payment (Rs.)
1.	10/12/2007	Commuted 10.12.2008 1 year	7,11,315 85,358
2.	-do-	Gratuity 10.12.2008 1 year	3,50,000 42,000
3.	-do-	Earned 10.09.2008 9 months	3,62,200 32,598
4.	-do-	GIS 10.05.2008 6 months	62,000 3,720
5.	-do-	Pension 10.12.2008 1 year	in 1,95,065 11,703

installments Total 1,75,379 of 12

3. The appellant made representation dated 18.12.2008 for payment of interest on account of delayed disbursement of pensionary benefits. However, the claim made by him was rejected on the ground that the delay in making payment of pensionary benefits was caused due to pending disciplinary proceedings against him under Rule 7 of the Rules. Some proceedings were also taken before the Lokayukta, Haryana.

4. We have heard learned Counsel for the parties and are of the view that the matter is governed by the Office Memorandum dated 20.2.2002, issued by the Government of Haryana, Finance Department, on the subject of payment of interest on the delayed retiral benefits. The State of Haryana, inter alia, laid down as under:

In the case of an employee against whom disciplinary proceedings are pending at the time of retirement and the employee is clearly exonerated and steered clear of all the charges during the process of disciplinary proceedings and proved innocent, the retiral benefits due to them should be paid along with interest from the date of retirement till the date of payment.

5. A perusal of the aforesaid para would clearly show that once an employee is steered clear of all the charges then all the retiral benefits due to such an employee should be paid along with interest from the date of retirement till the date of payment. Accordingly, the claim of the appellant has to be examined in the light of the aforesaid instructions. A perusal of the above table shows that gratuity, earned leave, GIS and pension have been paid after a period of six months to one year. Therefore, the delayed payment would bear interest. In support of above proposition reliance may be placed on the Full Bench judgment of this Court rendered in the case of R.S. Randhawa v. State of Punjab 1997(3) RSJ 318.

6. However, no interest can be claimed for commuted amount of pension for obvious reasons. The commutation has been granted on 10.12.2008 for a specified amount. In respect of the delayed period pension has also been given, as is evident from column 5 of the table. Therefore, no interest with regard to commutation of pension would be payable.

7. As a sequel to the above discussion, this appeal succeeds. The order of the learned Single Judge opining that disputed questions of law would arise is hereby set aside. The respondents are directed to calculate the amount of interest for delayed period at the rate of 8% per annum. The needful shall be done within a period of two months from the date of receipt of copy of this order.

9. The appeal stands disposed of in the above terms.