

(2006) 08 P&H CK 0402
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 16928 of 2005

Gursharan Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 01-08-2006

Acts Referred:

Citation : (2006) 08 P&H CK 0402

Hon'ble Judges : M.M.S. Bedi, J;M.M. Kumar, J

Bench : Division Bench

Advocate : H.P.S. Kochhar, for the Appellant; Aman Chaudhary, for the Respondent

Final Decision : Allowed

Judgement

M.M. Kumar, J.—The petitioner who was serving as Major in Medical Regiment had requested for his premature retirement which was accepted on 17.3.1998 (Annexure P.2). He was accordingly prematurely retired on 14.6.1998. He applied for release of retiring gratuity on 24.9.1998 (Annexure P.3). However, no action was taken for about two years. On 23.2.2000, respondent No. 3, Additional Directorate General Personal Service addressed a letter to respondent No. 2 i.e. Pr.C.D.A.(Pensions) Allahabad to do the needful (Annexure P.4). Thereafter a reminder was also sent on 28.4.2000. On 9.7.2003 another letter was written by respondent No. 2 requiring the petitioner to send the requisite documents which was again repeated by another letter dated 26.8.2003. The petitioner was forced to sent a reply that despite writing repeatedly, the gratuity amount with interest has not been released to him letters Annexures P.10 to P.17 have been placed on record. Letter dated 2.7.2005 (annexure P.17) shows that contingent bill affixed with revenue stamp and duly signed by the petitioner had been sent yet the gratuity amount was not released. Similar is the position in respect of letters dated 9.7.2005 (Annexure P.18), 25.7.2005 (Annexure P.19) and 5.9.2005 (Annexure P.20). When the matter came up for consideration on 23.3.2006 on behalf of the respondents it was pointed out that the benefit of

retirement gratuity could be released to the petitioner if the deficiency of pre-receipted contingency bill duly counter signed by the Commanding Officer of the Unit last served by the petitioner is produced. Accordingly, this Court directed the petitioner to hand over prereceipted contingency bill duly filled up with complete particulars to the learned counsel for the respondents who shall have the same countersigned from the Commanding Officer of the regiment that was last attended by the petitioner. We further directed that the needful be done at the earliest and the benefit of retirement gratuity be released to him. Accordingly, the retirement gratuity has eventually been released to him as has been stated by the learned Counsel for the parties .

2. Mr. Aman Chaudhary, learned Counsel for the respondents has placed on record a copy of the order dated 20.6.2006 showing that retirement gratuity has been released to the petitioner which amounted to Rs. 3,23,532.00. The same is taken on record as mark "A".

3. Mr. H.P.S. Kochhar, learned Counsel for the petitioner has submitted that gratuity amount of Rs. 3,23,532.00 was due to be paid in June, 1998 and the same has been paid after about 8 years. According to the learned Counsel, the petitioner is entitled to interest on the delayed payment as well as the litigation expenses.

4. Mr. Aman Chaudhary, learned Counsel for the respondent has stated that the delay is not attributable to the respondents as the pre-receipted contingency bill, duly filled, bearing S.B. Account No. and the details of the bank of the petitioner, counter signed by the Commanding Officer of the Unit last served by him had not been forwarded.

5. Having heard the learned Counsel, we are of the view that the delay cannot be imputed to the petitioner. It has remained undisputed that request of pre-mature retirement made by the petitioner was accepted on 17.3.1998 and he was to retire w.e.f. 14.6.1998. The petitioner has filed an application for payment of retiring gratuity in September, 1998 which infact could have been paid to the petitioner even without any such application. The delay which has been caused in making the payment to the petitioner is wholly attributable to the respondents.

6. For the delay in payment of Rs. 3,23,532.00, the petitioner deserves to be awarded interest. According to the view taken by a Full Bench of this Court in the case of R.S. Randhawa v. State of Punjab 1997 (3) RSJ 318, the rate of interest is stated to be 12 percent generally which could even go to the extent of 18 percent.

7. However, keeping in view the fluctuation in the rate of interest, we award the petitioner interest @ 9 percent w.e.f. 1.7.1998 till the date of payment. The amount of interest shall be paid to the petitioner within a period of three months from the date a copy of this order is received by respondent No. 2. The writ petition is allowed in the above terms.