
(2015) 03 P&H CK 0409

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 7341 of 2013 (O and M)

Mukandi Lal Singla

APPELLANT

Vs

UCO Bank and Others

RESPONDENT

Date of Decision : 25-03-2015

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2015) 146 FLR 706 : (2015) 3 SCT 823

Hon'ble Judges : Jitendra Chauhan, J

Bench : Single Bench

Advocate : R.K. Malik, Senior Advocate and Mandeep Singh, for the Appellant;
Sanjiv Gupta, Advocates for the Respondent

Final Decision : Allowed

Judgement

Jitendra Chauhan, J—By way of the instant writ petition, under Article 226 of the Constitution of India, the petitioner seeks direction to the respondents to grant interest @ 15% on the delayed payment of gratuity which was released to the petitioner after more than 12 years of retirement without any interest.

It is contended that the petitioner was appointed as a Clerk with the respondent's-Bank on 6/1996 and retired from service after attaining the age of superannuation on 30.11.2000. The payment of gratuity was not released to the petitioner by the respondent-bank on the ground that a criminal case was pending against him. The learned Counsel refers to Annexure P-1, issued by the Divisional Manager, wherein it has been specifically recorded that the petitioner is not involved in any criminal act. The petitioner had also filed CWP No. 10458 of 2001, which was disposed of with the direction to reconsider the matter and ultimately, on 18.1.2013, the gratuity amount of Rs. 3.50 lacs was released to the petitioner without any interest. The learned Counsel cites Y.K. Singh v. Punjab National Bank and others, in Civil Appeal No. 9087 of 2012 and D.D. Tewari Vs. Uttar Haryana Bijli Vitran Nigam Ltd., AIR 2014 SC 2861 : (2014) AIRSCW 4511 : (2014) LLR 964 : (2014) 9 SCALE 78 : (2014) 8 SCC 894 .

On the other hand, the learned Counsel for the respondent's-Bank submits that the gratuity was not released to the petitioner on account of the pendency of the criminal case against him. As per Rules and Regulations of the bank, the gratuity shall be paid to the petitioner on conclusion of the criminal proceedings. However, in view of the order dated 24.2.2012, passed by this Hon'ble Court, the respondent's-Bank by taking a sympathetic view had released the gratuity amount. Till date, the criminal proceedings are pending against the petitioner and, therefore, the present petition deserves to be dismissed in view of the law laid down in R. Veerabhadram Vs. Govt. of A.P., (2000) 2 LLJ 766 : (1999) 9 SCC 43 : (2000) SCC(L&S) 166 .

Heard.

2. Admittedly, the criminal proceedings are pending against the petitioner. However, this is to be noticed that the case was registered in the year 1981 on account of missing/untraceable judicial record since 1991, there has been no progress of the criminal case. This Court is of the view that the petitioner is not responsible for the delay in disposal of the criminal proceedings. In fact the pendency of the criminal case would not be relevant in this case, in view of the clarification made in Annexure P-1, the relevant of which is reproduced as under:--

"From the correspondence available with our office, it appears that Mr. ML Singla is not involved in any criminal act. In case you are also satisfied that Mr. ML Singla has not done any criminal act or offence, the bank would defend him and bear the expenses incurred/to be incurred in connection with defending Mr. Singla in the subject case."

3. The petitioner retired on 30.11.2000 and the gratuity amount was released on 18.1.2013, after more than 12 years, without any interest thereof. Once the payment towards gratuity has been released, the consequential benefit cannot be withheld.

In D.D. Tewari Vs. Uttar Haryana Bijli Vitran Nigam Ltd., AIR 2014 SC 2861 : (2014) AIRSCW 4511 : (2014) LLR 964 : (2014) 9 SCALE 78 : (2014) 8 SCC 894 it has been held as under:--

"4. It is an undisputed fact that the appellant retired from service on attaining the age of superannuation on 31.10.2006 and the order of the learned Single Judge after adverting to the relevant facts and the legal position has given a direction to the employer-respondent to pay the erroneously withheld pensionary benefits and the gratuity amount to the legal representatives of the deceased employee without awarding interest for which the appellant is legally entitled, therefore, this Court has to exercise its appellate jurisdiction as there is a miscarriage of justice in denying the interest to be paid or payable by the employer from the date of the entitlement of the deceased employee till the date of payment as per the aforesaid legal principle laid down by this Court in the judgment referred to supra. We have to award interest at the rate of 9% per

annum both on the amount of pension due and the gratuity amount which are to be paid by the respondent.

5. It is needless to mention that the respondents have erroneously withheld payment of gratuity amount for which the appellants herein are entitled in law for payment of penal amount on the delayed payment of gratuity under the provisions of the Payment of Gratuity Act, 1972. Having regard to the facts and circumstances of the case, we do not propose to do that in the case in hand."

Keeping in view the above facts and circumstances, the present petition is allowed. The respondents are directed to consider the claim of the petitioner and grant interest on the delayed payment @ 9% p.a., from the date of entitlement till the date of actual payment. If this amount is not paid within four months from the date of receipt of a certified copy of this order, the same shall carry interest @ 18% p.a., from the date the amount falls due to the petitioner.