

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No.12171 of 2010 (O&M)
Date of decision:19.01.2012

Ajit Singh son of Shri Baru Ram, resident of House No.313, Sector
6, HUDA, Panipat.

....Petitioner

versus

Uttar Haryana Bijli Vitran Nigam Limited, Shakti Bhawan, Sector 6,
Panchkula, through its Managing Director, and others.

....Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Jagbir Malik, Advocate, for the petitioner.

Mr. R.S. Kundu, Advocate, for the respondents.

1. Whether reporters of local papers may be allowed to see the judgment ? **No.**
2. To be referred to the reporters or not ? **Yes.**
3. Whether the judgment should be reported in the digest ? **Yes.**

K.Kannan, J. (Oral)

1. The petitioner seeks by means of a writ of mandamus a direction for awarding interest against the delayed disbursement of the retirement dues. The petitioner was appointed as Engineer and retired as an Assistant Executive Engineer on 30.06.2007. The petitioner's grievance is, he was paid his leave encashment in September 2009, his gratuity in October 2009, pension dues in October 2009 and the commutation of pension in November 2009.

According to the petitioner, there was simply no justification for the delayed payment.

2. The justifications proffered by the respondents are that there had been charge-sheets against the petitioner issued during his service, one on 23.08.2006 and another on 27.10.2006. The respondents however are prepared to accept that the charges had been dropped without further action even before his retirement, on 27.06.2007. A show cause notice appears to have issued on 13.03.2007 but it did not culminate into issuance of any charge-sheet but dropped on 31.12.2008. Yet another charge-sheet had been issued after his retirement in 2009 stating that in terms of audit objection, he was responsible for large amount running to several lakhs of rupees and the respondents had issued notices to the petitioner to come present to explain the queries raised by the audit on various dates, namely, on 16.05.2007, 30.06.2007, 10.06.2008 and 05.09.2008 and the petitioner had not come to answer the claims made by the respondents. Ultimately, it turned out that the audit objection could not sustained and the action was dropped. While the respondents admit that there had been a delay, they would however qualify it by saying that they were due to appropriate reasons.

3. If the charge-sheet had been established and if there was any charge-sheet which could be said to be lawfully instituted subsequent to the retirement, then it is possible to sustain the defence. The charge-sheets issued on 23.08.2006 and 27.10.2006

had been dropped even before his retirement. The charge-sheet issued in 2009 was per se impermissible, for, there is no provision anywhere under the relevant rules under which a charge-sheet could have been issued subsequent to his retirement. A show cause notice of the year 2007 cannot also be said to cause any impediment for payment of retiral dues, so long as there was no charge-sheet framed subsequent to the show cause notice before his retirement. None of the actions which the respondents had against the petitioner really afforded a ground for denying to the petitioner the retiral dues.

4. There have been ample authorities from this Court as well as from the Hon'ble Supreme Court that the retirement dues are no bounty for an employer to give to his employee. On the other hand, it is an earned wage during the service but staggered for disbursement by terms of employment. The employer ought to know that a person that makes way for a whole new crop to come on his superannuation, ought to go with his head held high and not feel burdened to frustration by how the employer treats him. The delay caused to more than two years, in my view, was not justified at all and in terms of the judgments which this Court as well as the Hon'ble Supreme Court have held, the retiral dues which had been paid subsequently in September to November 2009 shall also be mulcted with interest at 18% per annum on the amount ascertained with effect from 2 months from the date of superannuation till date of payment. This ought to sound a ring of caution to the respondents

that they treat their employees, who go out of retirement, with respect that they deserve. Any contumacious default or excuses by pendency of charge-sheets which are no longer continued at the time of retirement or which are initiated subsequent to retirement against the rules must be visited with serious consequences for the establishment. I will reject the contention that there was no justification for delayed payment for the retiral dues.

5. The writ petition is allowed with the directions given above.

19.01.2012
sanjeev

**(K. KANNAN)
JUDGE**



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