

IN THE HIGH COURT OF PUNJAB ANDHARYANA
AT CHANDIGARH

Civil Writ Petition No.14370 of 2011 (O&M)
Date of decision:30.05.2012

Jai Parkash son of Shri Chatter Singh, resident of Gali No.3, Baroda
Road, Gohana, District Sonapat.

...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. Mohnish Sharma, 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 ? No.
3. Whether the judgment should be reported in the digest ?No.

K.Kannan, J. (Oral)

1. Written statement along with Annexures R-4/1 to R-4/3 filed in Court on behalf of the respondents, is taken on record.
2. The petitioner's claim for gratuity, leave encashment and commutation of pension has been withheld on account of issuance of a show cause notice on 09.05.2008 and still later on 20.12.2011 that admittedly have not culminated in any finding of misconduct or guilt. The counsel for the petitioner states that Rule 2.2(b) of the

Punjab Civil Services, Volume-II, Part-I, allows for the pension or withholding only if departmental proceedings have commenced before retirement and if it continues after the retirement. The continuance of departmental proceedings or judicial proceedings as contemplated by Rule 2.2(b) cannot merely be at the stage of issuance of a show cause notice that has not been followed up with the further proceedings by constitution of an enquiry in the manner contemplated by the Rules. The counsel would rely on a Division Bench ruling of this Court in **Kirat Gopal Versus Haryana Vidhyut Parsaran Nagam Limited in CWP No.13049 of 1999, dated 29.03.2000**, where the Division Bench held that, *“the show cause notices served upon the petitioner requiring him to submit explanation in respect of certain allegation cannot be equated with the charge-sheet, the issuance of which is sine qua non for initiation of enquiry under the Punishment and Appeal Rules-P.R. Nayak Versus Union of India, AIR 1972 SC 554. In the present case no charge-sheet is shown to have been served upon the petitioner and, therefore, no departmental enquiry could have been treated as pending justifying withholding of the arrears of pay and retiral dues. In view of this, we have no hesitation to hold that the petitioner deserves to be compensated by award of interest for the delayed payment of death-cum-retirement gratuity etc.”*. If the respondents have not escalated the show cause notice to further proceedings during the service or at least immediately thereafter, the

respondents cannot withhold the benefits. There shall be a mandate for the release of the gratuity, leave encashment and commutation of pension within a period of 8 weeks from the date of receipt of copy of this order. The petitioner shall also be entitled to interest at 6% for the amount due from the date when it fell due, namely, the date of retirement.

3. The writ petition is allowed on the above terms.

30.05.2012
sanjeev

**(K.KANNAN)
JUDGE**



सत्यमेव जयते

