

*Before Rajesh Bindal, J.*

**D. C. SHARMA —Petitioner**

*versus*

**HARYANA STATE AGRICULTURAL MARKETING BOARD  
AND ANOTHER—Respondent**

**CWP No. 7051 of 2012**

January 7, 2013

*Punjab Agricultural Produce Markets Act, 1961 (Punjab Act, 23) - Haryana State Agricultural Marketing Board Service Rules, 2008 - Petitioner who retired as SDO from Respondent - Board seeking direction for release of retiral dues and also claiming promotion from the date his juniors were promoted - Retiral dues not paid on account of pendency of disciplinary proceedings - Even*

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*though the inquiry report had been submitted more than 3 months prior to retirement - Held, no justification for delaying the payment of retiral dues - Writ Petition allowed.*

*Held*, that considering the aforesaid factual matrix, this Court does not find that there was any reasonable ground with the respondents to have delayed the payment of retiral dues of the petitioner as the same could not have been paid immediately on his retirement after taking final decision on the enquiry initiated against the petitioner, the report of which had been submitted more than three months prior to his retirement but still the matter was kept pending for about one year for taking a final decision. Hence, it is directed that the petitioner shall be paid interest at the rate of 9% per annum for a period of 11 months on the amount of leave encashment, commutation of pension and gratuity. The amount of interest be calculated and disbursed to the petitioner within two months from today.

(Para 7)

D.R.Bansal, Advocate, *for the petitioner.*

Chand Ram Olla, Advocate, *for the respondents.*

**RAJESH BINDAL J.**

**CM NO.17900 OF 2012**

(1) CM is allowed. Accompanying replication to the written statement filed by respondents is taken on record.

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(2) The petitioner, who retired as Sub-Divisional Officer from the Haryana State Agricultural Marketing Board (for short 'the Board') on June 30, 2011, has approached this Court seeking a direction to the respondents to pay his retiral dues and also claim promotion from the date his juniors were promoted.

(3) Learned counsel for the petitioner submitted that though the petitioner retired on June 30, 2011, however, his retiral dues including the leave encashment, pension, commutation of pension, gratuity etc. were paid more than one year thereafter without there being any valid reason. Prior to his retirement, a charge sheet had been issued to the petitioner on 01.02.2010 in which a report was submitted by enquiry officer on 16.03.2011 opining that the charges alleged against the petitioner were not made out.

Still, no final action was taken by the Board, even though the petitioner was to retire from service on June 30, 2011. Immediately, after the retirement he was not paid the retiral dues. The proceedings initiated against the petitioner were dropped only on 16.03.2012. Thereafter also, the retiral dues were paid to the petitioner only after filing of the present writ petition. Thus, on account of delayed payment of retiral dues, the petitioner is entitled to payment of interest.

(4) Learned counsel for the petitioner further submitted that number of employees junior to the petitioner were promoted to the post of Sub-Divisional Engineer from 19.04.1991 onwards but the case of the petitioner was not considered. He had been making representations repeatedly. It was only on 16.09.2005 that the petitioner was promoted. Considering the fact that the persons junior to the petitioner were promoted prior in time, the petitioner also deserves to be promoted from that date.

(5) On the other hand, learned counsel for the respondents submitted that the retiral dues were not paid to the petitioner on account of pendency of disciplinary proceedings against him. After the final decision was taken in disciplinary proceedings the amount due to the petitioner on his retirement was paid. He did not dispute regarding submission of enquiry report before the retirement of the petitioner. He further submitted that the grouse raised by the petitioner regarding his promotion from the date his juniors were promoted is highly belated. It is sought to be claimed that the persons junior to the petitioner were promoted on 19.04.1991 onwards but still the petitioner never raised any grievance. Even though the petitioner was promoted on 16.09.2005, he accepted the promotion and did not raise any grievance. The petitioner cannot be permitted to raise the grievance about his promotion after he has already retired.

(6) Heard learned counsel for the parties and perused the paper book.

(7) As far as the claim made by the petitioner regarding payment of interest on his retiral dues is concerned, in my opinion, the petitioner has made out a case. The charge sheet was issued to the petitioner on 01.02.2010. The enquiry report was submitted on 16.03.2011 with the opinion of the enquiry officer that the charges alleged against the petitioner were not proved. Though the petitioner was to retire on June 30, 2011 but still no final decision was taken on the enquiry report. The petitioner retired from

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service, but taking the plea that the disciplinary proceedings were pending against him, his retiral dues were not paid. The decision was taken on the enquiry report only on 16.03.2012 when the proceedings initiated against the petitioner were dropped. Still, immediately thereafter the retiral dues were not cleared. It was only after the petitioner had filed the present writ petition on 18.04.2012 in which notice of motion was issued on 19.04.2012 for 11.07.2012 that the retiral dues of the petitioner were paid in June and July 2012.

(8) Considering the aforesaid factual matrix, this Court does not find that there was any reasonable ground with the respondents to have delayed the payment of retiral dues of the petitioner as the same could have been paid immediately on his retirement after taking final decision on the enquiry initiated against the petitioner, the report of which had been submitted more than three months prior to his retirement but still the matter was kept pending for about one year for taking a final decision. Hence, it is directed that the petitioner shall be paid interest at the rate of 9% per annum for a period of 11 months on the amount of leave encashment, commutation of pension and gratuity. The amount of interest be calculated and disbursed to the petitioner within two months from today.

(9) As far as the claim made by the petitioner regarding his promotion from the date his juniors were promoted, the same is to be merely noticed and rejected on account of delay and laches. The case set up by the petitioner himself is that the persons junior to him were promoted from the year 1991 onwards but still the petitioner did not think it appropriate to raise a grievance. He was promoted on 16.09.2005. Even at that time, the petitioner did not raise a grievance that he should have been given promotion from the date his juniors were promoted. Hence to take such plea after the petitioner has retired, deserves to be rejected on account of delay and laches.

(10) Ordered accordingly.

(11) To sum up, the writ petition is disposed of with a direction to the respondents to pay interest on delayed payment of retiral dues as directed above.