IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.16613 of 2012 (O&M)
Date of decision: 4.11.2015

Smt.Manjit Kaur

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Prem Singh, Special Power of Attorney, for the petitioner.

Mr.Inqulab Nagpal, AAG, Punjab.

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1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

Heard Mr.Prem Singh husband of Smt.Manjit Kaur who is a retired teacher from the Education Department, Punjab. The husband of the petitioner informs the Court that the petitioner is not keeping well and has been through medical surgeries and is not able to present the case herself nor is the couple in a position to defray the fees and expenses that might be involved in engaging a counsel. The issue involved is simple since it relates only to a claim for interest on delayed payments on provident fund, gratuity, leave encashment, GIS and revised grade.

2. Manjit Kaur-petitioner retired on 30th June, 2011 on reaching the age of superannuation. She claims that she submitted her pension papers

before 6 months of her retirement and completed all the necessary formalities but the amounts were delayed after retirement and in this respect the action of the Principal of the School is criticized in delaying forwarding the pension papers to the appropriate quarters to facilitate payment of pension and other pensionary dues on retirement or within reasonable time thereof. A chart of the delayed payments is found at pages 146 and 147 of the paper-book and there appears to be hardly any doubt that the payments were released late by 6 to 9 months and this delay is said to be not only unreasonable but culpable.

3. Since the amounts due have been withheld without just cause or legal justification, a prayer is made for award of interest @ 18% per annum on the delayed payments.

4. Reliance is placed on the Full Bench decision of this Court in **A.J.Randhawa, Supdg. Engineer (retd.)** v. **State of Punjab,** 1998 (1) SCT 343 where the Full Bench of this Court held that a writ petition lies only to claim interest on the delayed payment of pension or pensionary benefits.

5. In view of the settled law and looking to the inordinate delay caused in paying the pension and pensionary dues in time, the petitioner has a demonstrable case for award of interest on the delayed payments calculated from the date of retirement, the sanction orders and actual disbursement of the amounts.

6. However, the Full Bench decision was rendered in the year 1998 when the interest rates were much higher than what they are presently for fixed deposits maintained by Nationalized Banks.

7. In view of the interest regime and the economic reforms transformed over the years in a downward trend, this Court thinks that it would not be justified to award interest rates higher than 12% on such delayed payments so that interest rate does not appear disproportionate to the cause.

8. The Supreme Court in **Krishna Bhagya Jala Nigam Limited** v. **G.Harishchandra;** (2007) 2 SCC 720 have advised, though in an arbitration matter, that after economic reforms in our country, the interest regime is changed and the rates have substantially reduced and, therefore, the interest awarded by the arbitrator @ 18% per annum for the pre-arbitration period and for the pendente lite and future interest, deserves to be reduced to 9% per annum. Giving an allowance that the views of the Supreme Court has been expressed in a commercial matter involving arbitration and money disputes between Jal Nigam and the Contractor, the interest rate in matters of pay and pension deserves to be awarded at a higher rate than 9 % to make an allowance for penal element to fit the judicial dispensation and not just compensatory. This is for the reason that the functionaries of the department derelicted in their bounden duties enjoined by rules and instructions of the Government to draw pension cases promptly and release dues without delay so that the persons retiring from Government service get their dues in time and are able to survive the rising prices without eating into their assets waiting for pension to start.

9. One of such instructions dated 16.1.2004 have been pressed into service by Mr.Prem Singh on the subject of disbursement and payment of retiral benefits to the employees of the State Government. These

instructions recognize that the Courts have allowed interest on delayed payments of retiral benefits @ 12%, 15% and 18% which creates unnecessary burden on public funds. Therefore, the instructions called upon the functionaries of the State Government, In-charge of duty to resolve pension cases pending for more than 3 months that such cases should be brought to the notice of the Chief Secretary, Punjab with a copy to the Department of Finance for suitable action. The Department is also to inform the Finance Department etc. whether the retiral benefits to the retirees are paid without any delay or the delay has occurred due to lack of action on the part of the Administrative Department and such cases may be specifically brought to the notice of the Finance Department.

10. In view of these instructions issued over a decade ago, their sting will remain and, therefore, this Court is of the considered view that the interest at least @ 12% per annum deserves to be awarded to the petitioning retiree for the period of delay on the amounts paid after delay.

11. It will be open to the State Government to recover the amount of interest from the erring officers/officials who delayed the payment and to take suitable action against those found responsible for it so that the State is not burdened with the expense created by virtue of judicial precedents.

12. In view of the above, this petition is partially allowed. The amounts will earn interest @ 12% per annum for the period of delay on each of the heads of payment till realisation.

13. The State is directed by a mandamus to calculate the amounts of interest on each of the heads, supply a copy thereof to the petitioner within 14 days from the date of receipt of a copy of this order. The

petitioner would approve the calculation made @ 12% per annum and notify the department within 10 days thereof of their correctness and thereafter, the amount of interest accruing on different heads be paid to the petitioner within one month of the submission of acceptance of the calculations forwarded by the department to the petitioner.

(RAJIV NARAIN RAINA)
JUDGE

November 4, 2015
Paritosh Kumar