IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 212

Civil Writ Petition No.16983 of 2011 (O & M)
Date of Decision: *August 02, 2017*

Bharpur Singh (deceased) through LR Amritpal Kaur
..... PETITIONER

VERSUS

State of Punjab & others
..... RESPONDENTS

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CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

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PRESENT: - Mr. S.S. Salar, Advocate, for the petitioner.

Ms. Sudeepti Sharma, Additional Advocate General, Punjab.

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Jaspal Singh, J

1. The instant petition has been preferred under Article 226/227of the Constitution of India for issuance of a writ in the nature of Mandamus, directing the respondents to revise the pension of petitioner in terms of finance letter dated August 25, 2005 w.e.f. January 01, 1996 to make payment of arrears alongwith interest @ 18% per annum.

2. At the very outset of arguments, learned counsel for the petitioner has acknowledged the sanction of revised pension w.e.f. January 01, 1996 vide Accountant General, Punjab, Chandigarh Memo No. Pen 6-B-27/76/77/11634-37 dated October 12, 2011 (Annexure R-1). Further, in compliance of order dated September 20, 2016 passed by this Court,

pension/family of petitioner has been revised vide letter No. Pen-18/Pen-6-B-27/76-77/767-70 dated November 11, 2016 (Annexure R-2/1).

3. As regards grant of interest on delayed payment of retiral benefits, learned counsel for the petitioner has submitted that interest on delayed payment has not been awarded to which the petitioner is legally entitled. A writ in the nature of mandamus is legally maintainable for giving a direction to make the payment where it is justified in view of judgment delivered in ***A.S. Randhawa vs. State of Punjab & others, 1997(3) SCT 468*** as well as ***Vijay L. Mehrotra vs. State of U.P., 2000(4) SCT 267***. Gist of aforesaid judgment in the case of **A.S. Randhawa (supra)** is that a writ for direction to pay retiral benefits including interest is maintainable and that pensionary benefits, if released after a delay, entitles the incumbent to interest at the rate of 12%, which may even go upto 18% per annum. In case **Vijay L. Mehrotra (supra)**, the Hon'ble Apex Court, while considering the appeal only on the question of grant of interest on the delayed payment of retiral dues, has observed that in case of delay of payment, interest has to be paid on the delayed payment of retiral dues, in case there is no reason or justification for not making payment. It observed:

> "3. In case of an employee retiring after having rendered service, it is expected that all the payment of the retiral benefits should be paid on the date of retirement or soon thereafter if for some unforeseen circumstances the payments could not be made on the date of retirement.
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> 4. In this case, there is absolutely no reason or justification for not making the payments for months together. We, therefore, direct the respondent to pay to the appellant within 12 weeks from today simple interest at the rate of 18 per cent with effect from the date of her retirement, i.e. 31-8-1997 till the date of payments."

4. Similarly, in case ***Ex. Capt. R.S. Dhull vs. State of Haryana, 1998(2) SCT 729***, the Hon'ble Supreme Court observed that the

retiree is entitled to interest @ 12% per annum on the withheld GP Fund and Gratuity etc. from the date the same became payable to him on his attaining the age of superannuation till the date the payment is made to him.

5. Adverting to the facts of the case, petitioner retired on October 15, 1976. He claimed revision of his pension in terms of Department of Finance letter dated August 25, 2005 w.e.f. January 01, 1996 alongwith interest. His pension was revised vide Accountant General, Punjab Memo dated October 12, 2011 (Annexure R-1). Further, in compliance of order dated September 20, 2016 passed by this Court, an additional affidavit has been filed on behalf of respondent No.2 stating that pension/family pension of petitioner has been revised vide letter dated November 11, 2016 (Annexure R-2/1). It is a settled principle that grant of interest on the delayed payment is on account of the fact that retiree was unable to enjoy its fruits immediately on becoming this claim due to him and then a right accrues to him to be compensated and the only way to compensate him is to pay interest for the period of delayed payment. In the interregnum, petitioner died on February 14, 2013 and Amritpal Kaur wife of Amit Kapoor has been ordered to be impleaded as legal representative of petitioner – Bharpur Singh vide order dated September 03, 2013 passed in CM No.12499 of 2013. Meaning thereby, Amritpal Kaur is entitled to receive interest of delayed retiral benefits of petitioner.

6. In case A**.S. Randhawa (supra)**, the Full Bench of this Court observed that a Government employee on his retirement becomes immediately entitled to pension and other benefits in terms of the Pension Rules, a duty is simultaneously cast on the State to ensure the disbursement of pension and other benefits to the retiree in proper time.

7. It is also well settled that proper time for the disbursement of retiral benefits will depend on the facts and circumstances of each case but normally it would not exceed three months from the date of retirement which time limit has been laid down by the Apex Court in ***State of Kerala vs. M. Padmanabhan, AIR 1985 SC 356***; ***D.D. Tewari (D) through LRs vs. Uttar Haryana Bijli Nitran Nigam Ltd., 2014(4) S.C.T. 128***; ***A.S. Randhawa vs. State of Punjab (supra)***; ***J.S. Cheema vs. State of Haryana & others, 2014(3) RCR (Civil) 355***; and ***Manohar Lal vs. State of Punjab & others, 2016(4) SCT 250*** as well as judgment of Madhya Pradesh High Court in case ***Sudha Chhipa & others vs. State of M.P. & others, 2014 LIC 2125***. While following the Full Bench decision in the case of A.**S. Randhawa (supra)**, this Court in ***Amarjit Kaur vs. State of Punjab & others, 2011(1) Service Cases Today 85***, where there was delay of 16 years in payment of retiral benefits, has awarded interest @ 18% per annum on the delayed payment. The Government of Punjab, Department of Finance (Finance Personnel III Branch), vide Instruction dated May 10, 1990 has clarified that, in case of payment of interest on delayed payment of pensionary benefits made beyond three months, rate of interest is liable to be changed from time to time keeping in view the bank rate.

8. Taking into consideration the facts & circumstances of the case in hand, this Court is of the view that grant of interest @ 9% per annum, on the delayed payment after expiry of three months from the date of letter dated May 25, 2005 issued by the Finance Department, is legally and factually justified. Accordingly, this Court awards an interest @ 9% per annum on the delayed payment(s) w.e.f. November 25, 2005 to actual date of payment, which shall be paid by the respondents after calculating the

same within a period of three months from the date of receipt of certified copy of this judgment.

9. Disposed of accordingly.

(Jaspal Singh)
Judge

August 02, 2017
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Whether Speaking/ Reasoned: Yes/ No
Whether Reportable: Yes/ No