

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Sr. No.275

Civil Writ Petition No.17557 of 2016
DECIDED ON: October 31, 2017

HARJINDER SINGH

..PETITIONER

VERSUS

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. B.B.S. Randhawa, Advocate,
for the petitioner.

Ms. Devaki Anand Sullar, Assistant Advocate General, Punjab.

JASPAL SINGH, J. (ORAL)

The instant writ petition has been preferred under Article 226/227 of the Constitution of India for issuance of a writ in the nature of Mandamus, directing the respondents to pay interest @ 12% per annum on the delayed payment of retiral benefits.

2. The petitioner stood retired as Deputy Registrar, Co-operative Societies, Gurdaspur on July 31, 2015 on attaining the age of superannuation. After his retirement, petitioner was received pension payment order No.115043812 (P-1). But he received GPF amounting to Rs.19,36,091/- and Gratuity amounting to Rs.10,00,000/- on December 15, 2015 after delay of 137 days. An amount of Rs.6,96,350/- on account of

Leave Encashment was recieved on February 11, 2016 after delay of 195 days.

3. Learned State counsel for the respondent submits that the payment of Gratuity to the tune of Rs.10 lac was submitted in the Treasury vide No.335, dated August 24, 2015 and cleared by the Treasury on December 11, 2015. Bill for payment of Leave Encashment amounting to Rs.6,96,350/- was submitted vide No.414 dated October 09, 2015 and cleared by the Treasury on February 11, 2016. Similarly bill for payment of GPF to the tune of Rs.19,36,091/- was submitted vide No.59 dated September 07, 2015 and same was cleared by Treasury on December 14, 2015. Thus, there is no delay on the part of the respondents to release the said retiral benefits to the petitioner in view of Rule 9.13 of Chapter 9 of the Punjab Civil Services Rules Vol-2, which is reproduced below for ready reference:-

“If the payment of gratuity has been authorized after three months from the date when payment became due and it is clearly established that the delay in payment was due to administrative lapse, then interest at the rate of 10% per annum on the amount of gratuity shall be paid to the Government employee in respect of the period beyond three months.”

4. This Court has given an anxious thought to the aforesaid submissions made by learned counsel for the parties and gone through the documents available on file.

5. This Court is of the considered opinion 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.

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.”

6. 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.

7. 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.

8. 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.

9. Considering to the facts of the case in hand, though petitioner retired on July 31, 2015, yet the retiral benefits were not released/disbursed to the petitioner either on the day of his retirement or subsequent thereto within reasonable period of three months.

10. 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 retirement till the actual payment, is legally and factually justified. Accordingly, this Court awards an interest @ 9% per annum on the delayed payment w.e.f.

November 01, 2015 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.

11. Disposed of.

October 31, 2017
Avin/Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes/No