IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 228

Civil Writ Petition No.18705 of 2015 (O & M)
Date of Decision: *September 13, 2017*

Narinder Kumar Narang

..... PETITIONER

VERSUS

Punjab Water Resources Management and Development Corporation Ltd. & others

..... RESPONDENTS

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

PRESENT: - Mr. Vinod K. Kaushal, Advocate, for the petitioner.

Ms. Shivani Sharma, Advocate, for respondent Nos.1 to 3 & 5.

Ms. Sudeepti Sharma, Additional Advocate General, Punjab, for respondent No.4.

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Jaspal Singh, J

1. The instant writ petition has been preferred by the petitioner under Article 226 of the Constitution of India for issuance of a writ in the nature of Mandamus directing the respondents to release the leave encashment, interest on delayed payment of gratuity and other retiral benefits of petitioner alongwith interest @ 12% per annum from the date of retirement.

2. At the very out set of arguments, learned counsel for petitioner has acknowledged the receipt of retiral benefits. Accordingly,

writ petition has been rendered infructuous as far as grant of retiral benefits is concerned.

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 from the service of respondent No.1 as SDE (Junior Engineer) on attaining the age of superannuation on October 31, 2014. Petitioner was paid gratuity vide cheque No.122495 dated May 15, 2015; leave encashment vide cheque No.136127 dated February 10, 2016; and revised leave encashment vide letter No.37266-71 dated February 04, 2016. 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 his retirement 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. Now, a question arises as to the period in which the retiral benefits should be disbursed to the retiree.

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.

8. Undoubtedly, petitioner stood retired on October 31, 2014 and payment of retiral dues was sanctioned on May 15, 2015 (Gratuity); February 04, 2016 (sanction of revised leave encashment); and February 10, 2016 (sanctioned of leave encashment). At the most, the respondents could have taken a period of three months from the date of retirement during which the payment of retiral benefits should have been disbursed to the petitioner. 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 of petitioner till the payment, is legally and factually justified. Accordingly, this Court awards an interest @ 9% per annum on the delayed payment(s) w.e.f. February 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.

9. Disposed of accordingly.

(Jaspal Singh)
Judge

September 13, 2017
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Whether Speaking/ Reasoned: Yes/ No
Whether Reportable: Yes/ No