

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 287/3

Civil Writ Petition No.15343 of 2017 (O & M)
Date of Decision: *October 09, 2017*

Dharampal HC (P)

..... PETITIONER

VERSUS

State of Punjab & others

..... RESPONDENTS

...

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

...

PRESENT: - Ms. Anupma Sharma, Advocate, for the petitioner.

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

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Jaspal Singh, J

1. The instant petition has been preferred by Dharampal under Article 226/227 of the Constitution of India, seeking issuance of a writ in the nature of Mandamus, directing the respondents to release interest on the delayed payment of retiral benefits.

2. The only question which requires to be determined in the instant petition is whether petitioner deserves the grant of interest on the delayed payment of various retiral benefits and the answer to this question is in the affirmative in view of service rules/ instructions as well as various judgments of this Court as well as that of the Hon'ble

3. Undisputably, a writ in the nature of Mandamus is also legally maintainable seeking grant of interest on the delayed payment in view of law laid down by the Hon'ble Apex Court in ***Vijay L. Malhotra vs. State of U.P., 2004(4) SCT 267*** as well as Full Bench of this Court in ***A.S. Randhawa vs. State of Punjab & others, 1997(3) SCT 468*** wherein it has further been categorically observed that in case of delay in payment of retiral benefits, interest has to be paid. However, interest may vary from case to case depending upon the facts & circumstances thereof.

4. Adverting to the facts of the case, petitioner was dismissed from service of Police Department, Punjab, vide order dated December 01, 2008 on the allegations that one Jasvir Singh @ Jagsir Singh, accused in FIR No.43/84 under Sections 395, 397, 392, 34 IPC, Police Station, GRP, slipped away from his custody. FIR No.234 dated November 19, 2008 under Sections 223, 224, 225, 120-B IPC, Police Station, Sadar, Abohar, was registered against the petitioner in this regard. Petitioner was convicted and sentenced vide judgment dated February 17, 2011 passed by the SDJM, Abohar, in aforesaid FIR. However, he stood acquitted, in appeal preferred by him, vide judgment dated June 09, 2012 passed by the Additional Sessions Judge, Ferozepur. Consequently, he was reinstated in service from the date of dismissal vide order dated January 25, 2013 and period spent out of service was treated as Non-Duty period. Vide order dated February 09, 2013 passed by respondent No.3 – SSP, Ferozepur, petitioner was retired from service w.e.f. April, 30, 2010. On filing of mercy petition,

period from the date of dismissal till the date of reinstatement was treated as duty period vide order dated October 15, 2016 passed by the IG of Police, Bathinda Zone, Bathinda. Be that as it may, petitioner stood retired on April 30, 2010 from the services of Punjab Police Department but retiral benefits were only released and disbursed to him in the first week of July 2017. There is no reason what to talk of any plausible reason or justification for delayed disbursement of retiral benefits. It is also pretty settled by now 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.

5. As per the judgment in case of **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 and simultaneously a duty is cast upon the State to ensure the disbursement of pension and other benefits to the retiree in proper and reasonable time. However, the reasonable and proper time for release of the pension has also been held to be three months from the date of retirement or the accrual of cause of action. 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***, it has been held that normally payment of retiral benefits should not be delayed more than three months from the date of retirement and all the benefits should be extended within the aforesaid stipulated period. Further, where there is a considerable delay, pensioner deserves to be compensated by way of grant of interest as per the service rules/ regulations as well as Government instructions issued from time to time and various judgments, referred to above.

6. As per Instructions dated May 10, 1990 issued by the Government of Punjab, Department of Finance (Finance Personnel III Branch), interest @ 9% per annum shall be paid on all delayed payment of pension and DCRG for the period beyond three months after these benefits become due to the end of the month preceding the month in which the orders for making actual payments are issued to the pensioners concerned.

7. Since, in the instant case, petitioner was ordered to be retired from service w.e.f. April 30, 2010 by the SSP, Frozepur vide order dated February 09, 2013 and period from the date of dismissal till the date of his reinstatement was also treated as duty period while disposing of mercy petition vide order dated October 15, 2016 by the Inspector General of Police, Bathinda Zone, Bathinda, petitioner was entitled to the benefit who has been allowed to retire w.e.f. January 15,

2017. The benefits were only released and disbursed after a number of months i.e. in the first week of July 2017.

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 accrual of cause of action i.e. June 09, 2012, the date on which he stood acquitted in the criminal case. Accordingly, this Court awards an interest @ 9% per annum on the delayed payment w.e.f. September 09, 2012 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. In case of non-compliance of this judgment, petitioner shall be at liberty to approach this Court.

8. Disposed of accordingly.

October 09, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No