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

**CWP No.26518 of 2014
DECIDED ON: SEPTEMBER 18, 2017**

NIRVAIL SINGH **.....PETITIONER..**

VERSUS

PEPSU ROAD TRANSPORT CORP. AND ANOTHER **.....RESPONDENTS..**

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Malkeet Singh Balianwali, Advocate,
for the petitioner.

Mr. Karan Singla, Advocate,
for the respondents.

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JASPAL SINGH, J (ORAL)

By virtue of instant petition preferred under Article 226 of the Constitution of India, the petitioner has sought issuance of a writ especially in the nature of mandamus, directing the respondents to release retirement benefits including gratuity, leave encashment, provident and other funds, dearness allowance arrears, revised pay arrears and commutation of pension @ 30%, amounting to Rs.19,45,569/- alongwith interest @ 18% p.a. and also direct the respondents to release monthly pension along with arrears of pension since his retirement.

2. At the very outset, it has emerged that pension and other benefits

have been released/disbursed. However, some part of the amount on account of above referred benefits are still to be paid/disbursed to some of the petitioner. As far as the liability to pay retiral benefits, it is neither in dispute nor has it been denied. Similarly, it is also an undisputed fact that pensionary benefits have been released/disbursed after a considerable delay from the date of his superannuation but no interest on the delayed payment has been paid. Similarly, in other cases of similar nature which also pertains to PRTC, interest @ 9% per annum has already been allowed with effect from three months after the date of retirement till its actual payment. Otherwise also, by now, it is pretty settled that the employer is under a legal obligation to pay interest on the delayed payment and especially, when delay is attributable to the employer. It is an obligation on the part of the employer to explain and in the instant case, PRTC is to explain as to why it has not discharged its obligation to pay the retiral benefits within a prescribed period to the satisfaction of the Court. As per the averments raised on behalf of PRTC, delay is stated to have mainly occurred on account of shortage or paucity of funds, and further that, PRTC has been running in losses but for that reason, employees cannot be made to suffer or to part with their pensionary benefits which cannot be stated to be a bounty, rather, pensionary benefits are the hard earned money of the employees who have served PRTC for almost 2/3 decades and even more than that.

3. In case **Ashok Kumar & others vs. State of Punjab & another**, **2016(3) SCT 1** and some other connected cases, after considering the matter with regard to grant of interest on the delayed payment, PRTC was directed to pay interest @ 9% per annum after the expiry of a period of three months from

the date of retirement. While granting the aforesaid relief, following observations were made:-

> *"Interest is available in the writ jurisdiction with the pronouncement of the judgment by the Full Bench in* ***A.S. Randhawa vs. State of Punjab and others, 1997(3) SCT 468****. It is not disputed that in some of these cases, the full amounts have been paid and the claim is restricted to interest while in some others, the ascertainable amounts have yet to be paid while some of them stand discharged by the State. Learned counsel relies on a decision involving the respondent Corporation itself in a matter of award of interest for delayed payments of retiral benefits in which interest at the rate of 9% has been awarded for illegally withholding retiral benefits without any justification. There is no doubt that these petitions have to be allowed against the respondent in view of the decision of this Court relied on by Mr. Vikas Chatrath rendered in* ***Bhagwant Singh v. Pepsu Road Transport Corp. and others, 2015 (4) SCT 342*** *where the aforesaid 9% interest was awarded on delayed payments. The onus to explain delay is on the Corporation and they have been unable to discharge it to the satisfaction of the Court of the reasons which led to the delay and consequently directions to pay interest for the period of delay has become a valuable an accrued right. Accordingly, these petitions are allowed and the respondents are directed to pay interest @9% in CWPs 13405, 15324 and 15974 of 2015 while the respondents would calculate the delay in the remaining cases and award 9% interest on the period of delay on the amounts released and on the amounts yet to be released as they are still withheld. However, the interest would run with effect from three months after the date of superannuation in each of the cases till payment. The order be complied with within three months from the date of receipt of certified copy of this order."*

4. In case ***Vijay L. Mehrotra vs. State of U.P., 2000(4) SCT 267***, 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."*

5. 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.

6. In case **A.S. Randhawa vs. State of Punjab and others, 1997(3) SCT 468**, Hon'ble 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 thus, 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. Similarly, the Hon'ble Supreme Court in the matter of **S.K. Dua vs. State of Haryana & another, 2008(1) SCT 618 SC** has held that if after superannuation, if the pensionary benefits are not released on time, then the employee is entitled for interest on the delayed payments, when released. Further, Hon'ble Apex Court in case **D.D. Tewari vs. UHBVN Ltd.** (Civil Appeal No.7113 of 2014, arising out of SLP (C) No.25015 of 2011, decided on August 01, 2014) has awarded interest @ 9% on the delayed payment of pension and gratuity amount from the date of entitlement till the date of the actual payment.

9. Now, the question which survives for determination is with regard to the period in which payment is to be made by PRTC by way of interest on the delayed payment of retiral benefits or other due, if any, to any of the petitioners.

10. No doubt, as PRTC has been running in losses for a considerable period, and there appears some financial constraints on account of paucity of funds but that cannot be used as a weapon for denial of the interest on the delayed payment or other benefits, if any remains of any of the petitioners. In

case **Satpal Singh & others vs. Road Transport Corporation, Patiala & others**, CWP No.10331 of 2016, decided on July 23, 2016 alongwith some other connected writ petitions, PRTC was directed to make payment of interest @ 9% per annum on the delayed payment as early as possible but not later than six months. In similar situation, prior to passing of aforesaid judgment, in case **Bhagwant Singh vs. The Pepsu Road Transport Copt. & others**, CWP No.6403 of 2014 decided on April 24, 2015, respondents were directed to release all the retiral benefits to the petitioner alongwith interest @ 9% after expiry of period of three months till payment is released within a period of three months. 14. In CWP No.19084 of 2009 titled **Malkiat Singh & another vs. PRTC & another**, decided on March 03, 2011, some of the directions made by this Court which are relevant for disposal of these cases, read as under:-

> *"(i) All those employees who have retired after 01.01.2006 shall be paid the arrears of revised pay scales as well as the revised pensionary benefits following the slab adopted by the Punjab Government. The first slab/instalment in the instant case shall be released on or before 31.07.2011 followed by the next slab/instalment within the same duration of period as fixed by the State Government.*
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> *xx xx xx xx xx xx*
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> *(viii) **Interest at the statutory rate shall be paid on Gratuity** in terms of the undertaking already given by the respondent-Corporation before a Co-ordinate Bench in COCP No.562 of 2010 and other connected cases."*

11. The aforesaid judgment was challenged by way of LPA Nos.1972 to 1978 of 2016 which were disposed of with the following observations were made:-

> *"The principal grievance in the appeal(s) is that due to financial constraint if the time bound directions were issued by the learned Single Judge are complied with, it would not enable the Corporation to pay pensionary/retiral benefits to the 2016 retirees. On this premise, it is submitted that some more time ought to have been granted by learned Single Judge to comply with the order of paying interest to the respondents at the awarded rate.*
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> *It may thus be seen that the primary prayer is for extension of time within which the directions issued by learned Single Judge are to be complied with. We have no reason to doubt that if the Corporation would make out a justifiable case, learned Single Judge would consider its application for extension of time sympathetically and in such a manner that the 2016 retirees also do not suffer as a result of release of lumpsum payments in favour of pre-2016 retirees. The appeal is disposed of with liberty to the appellant-Corporation to move an appropriate application before the learned Single Judge. Ordered accordingly."*

12. Subsequent thereto, in pursuance of the aforesaid direction, applications for extension of time were moved to make good the payment in view of the aforesaid order already passed in CM No.8032-CWP of 2016 in CWP No.25961 of 2015, wherein on the basis of the statement suffered by the Managing Director, PRTC, Patiala, liability towards the amount of interest was ordered to be discharged by the PRTC/ respondent No.2 before the end of financial year 2016-17 vide order dated February 03, 2017.

13. In case, **Bhagwant Singh (supra)**, this Court, keeping in view the various judgments rendered by the Hon'ble Apex Court, directed the respondents to release all the retiral benefits to the petitioner alongwith interest

@ 9% per annum till the payment is released within a period of three months from the date of receipt of certified copy of the order. Similarly, in case **Satpal Singh (supra)**, PRTC was directed to make payment of interest @ 9% per annum on the delayed payment as early as possible but not later than six months.

14. A period of more than one year has elapsed from passing of judgment dated July 23, 2016 in CWP No.26520 of 2014 and respondent – PRTC must have earned the amount. No straight jacket formula can be formulated or projected for providing a specific time to disburse the various retiral benefits, however, considering the various judgments as well as financial constraints, PRTC is directed to evolve some source(s) to arrange the money to be paid to the petitioners who owe large responsibilities/liabilities of their families to discharge after retirement. Thus, this Court is of the considered view that it would be apt, proper and justifiable to direct the respondent – PRTC to make the payment(s) within a period of six months from the date of receipt of certified copy of this judgment. The respondent – PRTC is further directed to release the benefit(s), if any, still remains to be paid to the petitioner within the aforestated stipulated period alongwith interest as observed above.

15. As an offshoot of the aforesaid discussion, petitioner shall be entitled to interest @ 9% per annum on the delayed payment after expiry of three months period from the date of his retirement till its actual payment which shall be paid by the PRTC within a period of six months.

16. Petition stands disposed of accordingly.

17. However, in case, the petitioner still feels aggrieved of the order

passed by concerned authority, he shall be at liberty to approach this Court.

SEPTEMBER 18, 2017 **(JASPAL SINGH)**
sonika **JUDGE**

Whether speaking/reasoned ***Yes***

Whether reportable ***Yes***