IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH
Sr. No.: 276

CWP No.25188 of 2016
Date of Decision: *September 29, 2017*

AJIT SINGH AND OTHERS

…… PETITIONERS

VERSUS

PUNJAB WATER RESOURCES MANAGEMENT AND DEVELOPMENT CORPORATION LTD. AND OTHERS

….. RESPONDENTS

CORAM HON'BLE MR. JUSTICE JASPAL SINGH

PRESENT: Mr. Vinod K. Kaushal, Advocate, for the petitioners.

Mr. K.S. Narang, Advocate, for respondent No.1.

Ms. Devaki Anand Sullar, Assistant Advocate General, Punjab for respondent No.4.

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Jaspal Singh, J

By virtue of this civil writ petition, preferred under Article 226 of the Constitution of India, petitioners have sought issuance of a writ, order or direction especially in the nature of Mandamus, directing the respondents to release the interest on delayed payment of leave encashment and gratuity in view of judgment given in CWP No.20201 of 2014 titled as ***Darshana Devi & Ors. vs. Punjab Water Resources Management and Development Corporation Ltd. & anr.***

2. Learned counsel for the petitioners has submitted that interest on delayed payment of leave encashment and gratuity has not been awarded to which the petitioners are legally entitled.

3. 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."*

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. Reverting to the facts of the case, petitioners retired from the service of respondent No.1 on attaining the age of superannuation i.e. 58 years of age on different dates. Thus, they are entitled to gratuity and leave encashment etc. but the same were not released/disbursed to them. However, amount of gratuity and leave encashment were paid to them after a period of more than one year of the date of their respective retirement that too, without any fault on their part. 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. Thus, a right accrues to them to be compensated and the only way to compensate them is to pay interest for the period of delayed payments.

6. Now, a question arises as to the period in which the retiral benefits should be disbursed to the retiree. As per ***A.S. Randhawa's*** *case* ***(supra)***, it was 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 reasonable time. As to what is proper time 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. This Court also passed the judgment in CWP No.8772 of 2015 captioned as ***Charan Dass vs. State of Punjab & Ors.*** decided on July 11, 2017 on the same point.

7. Concededly, petitioners stood retired from the service of respondent No.1 on attaining the age of superannuation i.e. 58 years of age on different dates and payment of gratuity & leave encashment was received after a period of more than one year. At the most, respondents could have taken a period of three months from the date of retirement during which, payment of retiral benefits should have been disbursed to the petitioners.

8. Taking into consideration the facts & circumstances of the case in hand, this Court is of the considered view that grant of interest @ 9% per annum, on the delayed payment of gratuity & leave encashment to all the petitioners, after expiry of three months from the date of retirement till the payment, is legally and factually justified. Accordingly, this Court awards an interest @ 9% per annum on the delayed payment(s) of gratuity and leave encashment to all the petitioners, which will be payable after expiry of three months from the date of their retirement to actual date of payment on each particular retiral benefits, shall be paid to the petitioners by the respondent No.1 after calculating the same within a period of two months from the date

of receipt of a certified copy of this judgment. In case of non-compliance of this order, petitioners shall be at liberty to approach this Court.

9. Disposed of accordingly.

September 29, 2017 **(JASPAL SINGH)**
Ankur/sonika **JUDGE**

Whether speaking/reasoned **Yes**
Whether reportable **Yes/No**