

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 269

Date of Decision: *November 24, 2017*

1.

Civil Writ Petition No.22252 of 2017 (O & M)

Darshan Singh

..... PETITIONER(S)

VERSUS

State of Punjab & others

..... RESPONDENT(S)

...

2.

Civil Writ Petition No.22496 of 2017 (O & M)

Ashok Kumar & others

..... PETITIONER(S)

VERSUS

Punjab Water Resources Management and Development Corporation
Limited & others

..... RESPONDENT(S)

...

3.

Civil Writ Petition No.22886 of 2017 (O & M)

Shaminder Kaur

..... PETITIONER(S)

VERSUS

State of Punjab & others

..... RESPONDENT(S)

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4.

Civil Writ Petition No.24749 of 2017 (O & M)

Karanjit Singh

..... PETITIONER(S)

VERSUS

State of Punjab & others

..... RESPONDENT(S)

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5.

Civil Writ Petition No.24751 of 2017 (O & M)

Dr. Satish Chander

..... PETITIONER(S)

VERSUS

State of Punjab & others

..... RESPONDENT(S)

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6.

Civil Writ Petition No.24916 of 2017 (O & M)

Virender Rajput

..... PETITIONER(S)

VERSUS

Food Corporation of India & others

..... RESPONDENT(S)

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7.

Civil Writ Petition No.25938 of 2017 (O & M)

Suresh Kumar

..... PETITIONER(S)

VERSUS

The Chief Secretary to Govt. of Punjab & others

..... RESPONDENT(S)

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8.

Civil Writ Petition No.25448 of 2017 (O & M)

Subash Kumar

..... PETITIONER(S)

VERSUS

State of Punjab & others

..... RESPONDENT(S)

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CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

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PRESENT: - Mr. Hitesh Verma, Advocate; Dr. Naresh Kaushik, Advocate; Mr. Rajesh Punj, Advocate; Mr. Vinod K. Kaushal, Advocate; Mr. Amit Kumar Walia, Advocate; Mr. Vishal Gupta, Advocate; Mr. S.K. Rattan, Advocate; and Mr. Vijay Rana, Advocate, for the petitioner(s).

Ms. Jasleen Kaur Sindhu, Assistant Advocate General, Punjab.

Mr. Rajesh Garg, Senior Advocate, with Mr. Rajnikant Upadhyay, Advocate, for respondent No.2 in CWP No.24916 of 2017.

Mr. Manish Joshi, Advocate, for respondent Nos.1, 2, 3, 5 and 6 in CWP No.22496 of 2017.

Mr. Harsimran Singh Sethi, Advocate, for respondents No.2 and 3 in CWP No.25938 of 2017.

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Jaspal Singh, J

1. This judgment shall dispose of a batch of aforementioned writ petitions as they involve commonality of facts, controversy and applicability of law.

2. The petitioners, in these petitions, seek a writ in the nature of Mandamus directing the respondents to release the pensionary benefits/ arrears of pension/ arrears of DA and grant of interest on the delayed payment of retiral dues including gratuity, leave encashment/ arrears of pay.

3. The only question which requires to be determined in the instant petition is whether petitioners deserve 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 Apex Court.

4. 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., 2000(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. It has been further 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

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.

5. There is no reason what to talk of any plausible reason or justification for delayed disbursement of retiral benefits. It is also 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. 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.

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. 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 petitioners/ date of accrual till the payment, is legally and factually justified. Accordingly, this Court awards an interest @ 9% per annum on the delayed payment from expiry of three months from the date of retirement of petitioners/ date of accrual 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. Further, a direction is issued to the respondents to consider the claim of petitioner(s) in case any payment/arrear is pending towards them including interest, if any in the above terms, within a period of three months. In case, petitioners still feel aggrieved they shall be at liberty to approach this Court.

7. Disposed of.

November 24, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No