

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 235

Civil Writ Petition No.3985 of 2016 (O & M)
Date of Decision: August 23, 2017

Charanjit Singh

..... PETITIONER

VERSUS

State of Punjab & others

..... RESPONDENTS

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CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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PRESENT: - Mr. Malkeet Singh, Advocate, for the petitioner.

Ms. Sudeepti Sharma, Additional Advocate General,
Punjab.

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Jaspal Singh, J

1. By virtue of this civil writ petition, preferred under Article 226/227 of the Constitution of India, petitioner has sought issuance of a writ in the nature of Mandamus, directing the respondents to compute and disburse his post retiral benefits w.e.f. December 04, 2015 such pension, GPF, leave encashment, DCRG etc. after updating his service book alongwith interest @ 18%.

2. At the very out set of arguments, learned counsel for petitioner has acknowledged the receipt of retiral benefits. As per reply filed on behalf of respondent Nos.1 to 4, departmental enquiry against the petitioner as ordered to be filed vide office order No.7857-60/A-3/Admn.

pension as well as pensionary benefits such as pension payment order, DCRG, Commutation payment order, Leave encashment order, General Provident Fund payment order vide Annexure R-2 to R6, respectively. 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.

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 joined Punjab Armed Police as Constable on August 19, 1975. He was promoted upto to the rank of Deputy Superintendent of Police, C & R (Charge & Rank) and was deputed at Modern Central Jail, Jalandhar at Kapurthala. As per Punjab Government, Department of Finance Notification No.22/2/2012-3FP-2/471-476 dated September 20, 2013 and vide order No.6081-84/E-4 dated March 11, 2015 of Deputy Inspector General of Police, Admn., PAP, Jalandhar Cantt, he was given extension of one year w.e.f. April 30, 2015 , on which date, he retired from service. However, retiral benefits were released and disbursed to him September 05, 2016 vide Annexure R-2 to R-6. 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 completed 58 years and was to retire on April 30, 2015 but his services were extended for a period of one year but prior to expiry of said period on December 12, 2015, his extension in service was withdrawn. Meaning thereby, petitioner stood retired w.e.f. December 04, 2015. 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 and keeping in view the rate of interest prevalent now, this Court is of the view that grant of

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 w.e.f. April 01, 2016 to actual date of payment i.e. September 09, 2016, 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. As far as grant of Proficiency Step up on completion of 4/8/9 years and 14 years of service is concerned, petitioner served a legal notice dated December 24, 2015 upon the respondents. Since the matter in this regard is already subjudice with the Department, respondents are directed to decide the claim of petitioner re: grant of proficiency step up and consequential benefits, within a period of three months from the date of receipt of certified copy of this judgment. If the petitioner still feels aggrieved of any order passed by the competent authority, he shall be at liberty to approach the Court.

8. Disposed of accordingly. No order as to costs.

August 23, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No