

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 223

Civil Writ Petition No.8919 of 2016 (O & M)
Date of Decision: October 24, 2017

Amar Chand

..... PETITIONER

VERSUS

Pepsu Road Transport Corporation, Patiala & others

..... RESPONDENTS

. . .

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

. . .

PRESENT: - Mr. R.S. Chauhan, Advocate, for the petitioner.

None for the respondents.

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Jaspal Singh, J

1. The instant petition has been preferred by petitioner – Amar Chand, for issuance of a writ in the nature of Mandamus, directing the respondents to release payment of interest on delayed payment of retiral dues; to calculate and release the retiral benefits after counting the benefit of two years' qualifying service; and to release the arrears of 30% of revision of pay scale.

2. Notice of motion was issued on October 04, 2016. Despite notice, no one appeared on behalf of the respondents.

2. Learned counsel for the petitioner has submitted that petitioner joined the service in Pepsu Road Transport Corporation (for short, 'Corporation') as a Clerk on October 09, 1980. He was promoted as Junior

Assistant and retired on superannuation on March 31, 2011. Though some retiral benefits were released, but terminal dues i.e. DCRG to the tune of ₹ 3,76,770/-; GPF amounting to ₹ 2,11,287/-; Leave Encashment to the tune of ₹ 2,53,900/-, Commutation of Pension amounting to ₹ 3,03,766/- and arrears of pay revision amounting to ₹ 1,25,951/- w.e.f. January 01, 2006 had not been released. Petitioner approached this Court by way of CWP No.1699 of 2012 which was disposed of vide judgment dated May 30, 2012 (Annexure P-2) directing the respondents to consider his claim within a time frame. Even, despite the specific direction passed by this Court, petitioner had to again approach this Court by filing COCP No.441 of 2013, during the pendency of which, payment was made to the petitioner and COCP was disposed of as infructuous vide judgment dated May 23, 2013. Though, payment was made but interest on the delayed payment was not paid. Even service of two years was also not counted towards qualifying service nor the retiral dues were re-calculated. Arrears of 30% revision of pay scale were also not released. Accordingly, petitioner submitted a demand/ legal notice dated October 01, 2015 demanding interest on delayed payment; benefit of two years' qualifying service; and arrears of 30% of revision of pay scale.

3. This Court has given an anxious thought to the aforesaid submissions made by learned counsel and gone through the record available.

4. By now, it is pretty settled that the employer is under a legal obligation to pay interest on the delayed payment, 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.

5. 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.”

6. 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.

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.”

7. 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.

8. 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.

9. 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.

10. In the fact of changing scenario in this regard, interest rate changes from time to time. Thus, ideally speaking, an employee should get interest @ 9% per annum on the delayed payment of retiral benefits after expiry of a period of three months from the date of retirement till its actual payment and order is accordingly made in this context. 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.

11. 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. 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.

12. 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.

13. 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 i.e. July 01, 2011 till its actual payment which shall be paid by the PRTC within a period of three months from the date of receipt of a copy of this judgment.

14. As regards, calculation/release of retiral benefits after granting the benefit of two years' qualifying service and release of arrears of

claim of petitioner unfolded in demand/ legal notice dated October 01, 2015 and pass a speaking order in accordance with law and service rules. In case, petitioner is found entitled to the aforesaid claim, amount be released forthwith alongwith interest @ 9% per annum in accordance with earlier paragraph of this judgment.

15. Petitions stand disposed of accordingly.

October 24, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No