IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

(239) **CWP-14329-2017**
Date of Decision: December 06, 2018

Satinder Kumar Mahajan **..Petitioner**

Versus

Punjab Water Supply & Sewerage Board and ors. **..Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vikram Attri, Advocate, for
Mr. Dhiraj Chawla, Advocate, for the petitioner.

Mr. Vijay Kumar Kaushal, Advocate,
for respondents No. 1 to 3.

<u>HARSIMRAN SINGH SETHI, J.(ORAL)</u>

In the present petition, the petitioner has approached this Court with a prayer that the retiral benefits including Gratuity and Contributing Provident Fund amounting to Rs.37,69,762/-, alongwith interest should be paid to the petitioner. Further, it has been prayed that even the Leave Encashment was paid after the delay of four months, therefore, the petitioner is entitled for the interest on the said delayed payment as well.

As per the avements made in the petition, the petitioner was appointed as a Junior Engineer in the respondent-Board on 08.05.1980. He was further promoted as Sub Divisional Engineer on 16.12.2016 with effect from 25.01.2016. The petitioner continued working as such, when on attaining the age of superannuation, the petitioner retired on 31.01.2017. After the retirement, the petitioner was entitled for the pensionary benefits which includes Leave Encashment, Gratuity, CPF etc. For this, vide order dated 21.03.2017, No Objection Certificate was issued to the petitioner wherein, it was duly mentioned that there is no Court case or Audit

Objection or Departmental/Vigilance Enquiry pending against the petitioner. Thereafter, on 23.05.2017, an order was passed sanctioning the gratuity and despite the fact that gratuity was sanctioned, no final payment was made. As per the pleadings, ultimately the petitioner got the amount in respect of Leave Encashment on 31.05.2017, Contributing Provident Fund on 24.07.2017 and Gratuity on 18.10.2017. The petitioner contends that as there was delay in releasing the same, he is entitled for the interest on the same keeping in view the law laid down by this Court in ***J.S. Cheema Vs. State of Haryana and others, 2014 (13) R.C.R. (Civil) 355*.**

Reply has been filed by the respondents today in the Court and the same is taken on record.

In defence for the delayed payment, the respondents have stated that there was an order to charge-sheet the petitioner and the charge-sheet was also sent to Divisional Office, Amritsar but somehow, the same was not issued to the petitioner and ultimately, after the decision, no dues certificate was issued to the petitioner and the payments were released to the petitioner. It has not been denied that the petitioner retired on 31.01.2017 and the payments have been released after the delay of 4 to 10 months.

I have heard learned counsel for the parties.

It has been admitted by the respondents that that there was only an intent to issue a charge-sheet but no actual charge-sheet was issued to the petitioner. Once, no charge-sheet was issued to the petitioner, there was no justification with the respondents to withhold the retiral benefits. The retiral benefits should have been released immediately. There is a delay in releasing the pensionary benefits and the same is only attributable to the respondents themselves. Under these circumstances, in view of law laid down by this Court in ***J.S. Cheema's case (supra)*** to the effect that where, the retiral benefits have been released after unexplained delay, the employee is entitled for the interest. The relevant paragraph of the judgment is as under:-

> " *The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it."*

In the present case, the amount due to the petitioner was lying with the respondents and once the same was lying with the respondents, the petitioner despite being entitled, could not use the same for the benefit.

Under these circumstances, the present writ petition is allowed. The respondents are liable to pay at the rate of 6% per annum on the delayed payments. The petitioner will get statutory interest which the authority gives on the Contributing Provident Fund.

(HARSIMRAN SINGH SETHI)
JUDGE

December 06, 2018
harsha

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No