

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 22639 of 2016 (O&M)

Date of Decision : 13.12.2018

Bhagatu Ram Dalal

...Petitioner

Versus

State of Haryana and others

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Neeraj Kumar, Advocate for the petitioner.

Mr. Ravi Dutt Sharma, Deputy Advocate General, Haryana.

Harsimran Singh Sethi, J.(Oral)

CM-3194-CWP-2018

The present application has been filed to place on record letter dated 28.12.2017 (Annexure P-21), letter dated 24.01.2018 (Annexure P-22) and letter dated 01.02.2018 (Annexure P-23).

The application is allowed and the letters mentioned above are taken on record as Annexures P-21 to P-23 respectively.

CWP-22639-2016

In the present case, the petitioner is claiming interest on the delayed payments.

2. As per the averments made in the writ petition, the petitioner, who was appointed as a Junior Engineer on 20.11.1981, ultimately retired as a Sub Divisional Engineer on 31.05.2016.

3. Learned counsel for the petitioner contends that even though some of the retiral benefits were released to the petitioner within a period of three months of his retirement but the gratuity, commutation of pension and

leave encashment were paid after a considerable unexplained delay.

4. As per the averments made in the writ petition, the payment of leave encashment amounting to ₹7,06,730/- was given to the petitioner on 26.08.2016. A sum of ₹38,415/- on account of General Insurance was paid to the petitioner on 04.07.2016. The payment of Provident Fund amounting to ₹33,19,665/- was released to the petitioner on 16.06.2016 and the Provisional Pension amounting to ₹15,705/- was also released to the petitioner on 06.06.2016. He, however, states that the gratuity amounting to ₹13,34,850/- was released to him on 08.02.2018. Similarly even the commutation of pension amounting to ₹16,25,314/- was also released to him on 08.02.2018. He further states that the amount arrears of the leave travel concession amounting to ₹68,788/- was released to him on 07.10.2016. Learned counsel states that the last three payments have been made with a delay which is totally unexplained and hence as per the settled principle of law settled by the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab***, 1997 (3) SCT 468 as well as by another judgment of this Court in ***J.S. Cheema Vs. State of Haryana and others***, 2014(13) RCR(Civil) 355, the petitioner is entitled for interest on these delayed payments.

5. Learned counsel for the respondents, on the other hand, justifies the payments made and states that the major payments were made to the petitioner within a period of three months. Further he states that the department had intended to initiate proceedings against him for the various irregularities done by the petitioner during his service careers but keeping in view the provision of Rule 2.2 of the Punjab Civil Services Rules (as applicable to Haryana), the petitioner could not be charge-sheeted and, therefore, after a decision was taken in this regard not to initiate any

proceeding. The petitioner was paid gratuity as well as commutation of pension in February, 2018 and, therefore, as the matter remained pending in respect of the various allegations alleged against the petitioner, the department was justified in retaining the amount till the decision was taken by the respondents.

6. I have heard learned counsel for the parties and have gone through the case file very carefully.

7. In the present case, it is an admitted fact that there was no charge-sheet which was issued to petitioner at any stage either before the retirement or after the retirement in respect of the allegation. Once there was no charge-sheet issued against the petitioner, the respondents were not justified in withholding the amount only on the proposed initiation of the disciplinary proceedings against the petitioner and that too after retirement. It is a matter of fact that the petitioner retired from service on 31.05.2016 and the payments of gratuity and commutation of pension was made in February, 2018 i.e. approximately after three years. It cannot be assumed that the matter remained pending with the respondent-department for a period of three years so as to come to the conclusion as to whether any departmental action is to be taken against the petitioner or not. Once there was no charge-sheet issued to the petitioner, the action of the respondents in withholding the amount is unjustified for which he is entitled for the interest.

8. Learned counsel for the petitioner has drawn my attention to a letter dated 28.12.2017 which has been written by the Executive Engineer, Mahendergarh, Canal Water Services Division, Mahendergarh to the Superintending Engineer, J.L.N. Water Services Circle, Narnaul, in respect

of the dues payable to the petitioner after retirement. In the said letter, it has been admitted that there is no charge-sheet or any departmental proceeding which was pending against the petitioner and the said official has mentioned that the department should not hesitate to admit that the payments were delayed intentionally and in a wrongful manner. Once the Officers of the department themselves were of the view that the delay in payments was unjustified, the petitioner cannot be denied the grant of interest, as per the law laid down by this Court in the case of ***J.S. Cheema Vs. State of Haryana and others (supra)***, the petitioner will become entitled for the interest also. The relevant paragraph of the judgment reads 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.”

9. In view of the above, the writ petition is allowed. The petitioner is entitled for interest on the delayed release of the gratuity, commutation of pension and the arrears of the leave travel concession @ 9% per annum from the date it became due till the same is released to the petitioner.

December 13, 2018
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No