

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.25225 of 2015

Date of Decision: 11.09.2018

Ram Phal

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. N.S. Bhinder, Advocate,
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

RAJIV NARAIN RAINA, J.(Oral)

1. This petition has been filed claiming interest on delayed payments of pension and pensionary benefits. The background of the case is that the petitioner was compulsorily retired from service at the age of 55 years in public interest vide notice dated April 20, 2012. The State Government had invoked the provisions of Rule 3.26 (d) of Punjab Civil Services Rules, Vol.-1, Part-1 and Rule 9.18 (1)(c) of the Punjab Police Rules, 1934 as applicable to the State of Haryana. Notice was issued by the Commissioner of Police, Gurgaon proposing to compulsorily retire the petitioner on expiration of the stipulated period of notice. Accordingly, the petitioner stood retired from service w.e.f. September 05, 2012 A.N.

2. The petitioner challenged the notice of retirement from service by way of filing CWP No.12338 of 2012. That writ petition was admitted to regular hearing on February 27, 2015.

3. In the written statement filed by the department, it is stated

while contesting the case that after the petitioner was compulsorily retired on September 05, 2012 vide order dated August 30, 2012 he did not go to the office of the answering respondent for submitting the necessary documents on prescribed proforma for pension purpose which is a common liability of the retiree as well as of the employer. As he did not pay a visit to the office of the respondent to complete the codel formalities and help in preparing the necessary paper-work, processing his claim obviously suffered delay. The delay is attributed to the petitioner by the respondents as intentional. The State may be right in saying that the petitioner is presumed to have sat back to await the decision in the writ proceeding in challenge to the notice of compulsory retirement from service at the age of 55 years in the hope of success of the litigation. The petition has been admitted without any stay orders passed.

4. The conduct of the petitioner even after the admission of the petition shows lack of cooperation with the department in submitting the documents on prescribed proforma to process his case for release of retirement dues as the procedure requires to be met. The delay appears to be intentional for ultimately shifting the liability from himself to the answering respondent for claiming interest on delayed payment of retiral benefits. It is stated in the reply that the pension case of the petitioner was sent to Accountant General (A&E) Haryana vide memo dated June 03, 2015. In response to the above, the Accountant General, Haryana, Chandigarh has approved pension of ₹9250/- w.e.f. September 06, 2012 vide PPO No.1115127492127492 and Gratuity in the sum of ₹5,25,030/- by letter No. Pen-1/1215127492127492/2/P/15/10/132631 dated July 08, 2015 releasing

the amounts towards the petitioner. Hence, there is no delay, of the culpable kind, on the part of answering respondent for withholding payment of benefits of retirement.

5. Replication has not been filed to controvert the assertions in the written statement particularly the contents of para.2 thereof and, therefore, it is not a case where pension and pensionary benefits have been illegally withheld by the State. Therefore, reliance on the Full Bench decision of this Court in A.J. Randhawa v. State of Punjab and others, 1997 (3) RSJ 318 is neither here nor there.

6. The legal notice claiming interest has been served only in 2015. No representation was made earlier claiming pension and pensionary benefits along with interest i.e. from 2012 to mid 2015. The petitioner never came forward to help the department in finalizing his pension case for which they had to wait. Even otherwise, the petitioner obviously knew that he was to be compulsorily retired. Prudence would have it that he should have acted promptly in completing the formalities within the notice period or soon thereafter, for which his signatures were essential. He may have thought in case he claims pension and other dues with interest it might weaken his case against the order of compulsory retirement. These amounts, if received by him, could always be adjusted later depending on the success of the petition.

7. In these facts and circumstances, the State exchequer I think ought not to be burdened with interest on the principal sums of money for the calculated passivity of the petitioner for almost three years till 2015 when after on completion of the formalities payments were made to him.

Claims for interest are not statutory based rights but depend for payment on considerations such as illegal withholding of money by the ex- employer and the right to receive in the claimant. The department had no option but to wait for the petitioner to turn up and lend his helping hand.

8. Besides, there is no rule or regulation governing such a situation shown which provides for payment of interest automatically even if the retiree is at fault or has himself been responsible for causing the delay. Usually a right to interest is declared and granted by courts of law in appropriate cases of culpable delay or red tape in the office and, therefore, claim for interest must be based on a written request made at the earliest with promptitude shown in drawing up the necessary documents to receive entitlements on retirement. These could easily have been completed during the notice period without prejudice to his rights against the order of compulsory retirement. He could have clearly said so to protect his perceived rights. He could have done all acts to claim service pension and other dues on time and then the claim for interest would not have arisen. No fault can be attributed to the respondents in this behalf.

9. There is also no such rule or instruction/s shown or placed on record of this case to claim interest by mere delay. That apart, nothing further is shown in his favour till the petitioner woke up in 2015. Before that year he kept waiting in the hope of securing an interim order staying the operation of the impugned order in the pending writ petition, which event never happened. It is also not the case set up by the petitioner that even after completing the formalities payment was not made promptly thereafter or within a reasonable time.

10. As an upshot of the above discussion, and on hearing the parties I find the petition lacks merit and must fail. It is hereby ordered to stand dismissed.

11.09.2018
manju

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	Yes