**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 3325 of 2015 (O&M)
Date of Decision : 03.12.2018

Jagdish Singh

...Petitioner

Versus

The Secretary Local Government, Govt. of Punjab, Punjab Civil Secretariat, Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sourav Dhir, Advocate for
Mr. Pavit Singh Mattewal, Advocate for the petitioner.

Mr. Sandeep Vermani, Additional Advocate General, Punjab.

Mr. Piyush Sharma, Advocate for respondents No. 3 and 4.

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Harsimran Singh Sethi, J.(Oral)

The present writ petition has been filed by the petitioner for release of the retiral benefits alongwith interest @ 18% from the date it became due till the same were paid.

Learned counsel for the petitioner states that the petitioner was appointed as a Clerk in the Municipal Council, Dhuri in the year 1975 and he retired from the same post on 31.03.2013.

As per the averments made in the writ petition, while the petitioner was in service, an FIR No 110 dated 01.07.2008 was registered against him and after the registration of the FIR, the petitioner was suspended. Ultimately, in the criminal case, the petitioner was found innocent and was acquitted of the charges leveled against him vide judgment dated 01.10.2011 (Annexure P-2). As there was no appeal filed against the said judgment, the same attained finality.

Learned counsel for the petitioner states that when petitioner retired from service on 31.03.2013, there was nothing pending against him, which made the respondents entitled to withhold the pensionary benefits and the pensionary benefits were released after inordinate delay without any justification.

Notice of motion was issued and the respondents in their reply in para 3 have admitted that benefits have been released in favour of the petitioner. In the detail of the amount released, it has been mentioned that a sum of ₹50,000/- was released on 31.05.2013 i.e. after two months of the retirement and then another sum of ₹50,000/- was released on 19.11.2013. According to the chart given in the written statement, a sum of ₹2 lac was released on 17.12.2013 and another sum of ₹1,34,535/- was released on 27.03.2014.

Respondents have not given the details as to on what account, the amount(s) were released on the above mentioned dates but it is clear from the above that even though the petitioner retired on 31.03.2013, the amount was released after a delay for which no justifiable explanation has been given.

In the reply, it has further been mentioned that a sum of ₹64,804/- was deducted as contribution for the purpose of grant of pension to the petitioner and a total sum of ₹4,99,339/- has been paid to the petitioner on account of retiral benefits.

It is clear that the amount for which the petitioner was entitled for after his retirement, was withheld without any valid justification. It is a settled proposition of law settled by this Court in the case of ***J.S. Cheema Vs. State of Haryana and others,*** 2014(13) RCR (Civil) 355, wherein it has been held that whenever there is a delay which is unexplained and not justified, the employee will be entitled for the interest on the said delayed payments. 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."*

In the present case, delay is there and that too unexplained. Hence, the respondents are directed to pay the petitioner interest @ 9% per annum from the date on which the amount became due till the same was released to him.

Let the calculation be made within a period of two months and the amount so calculated be paid within a period of next one month.

Learned counsel for the petitioner states that the petitioner has not been paid for the period when the FIR was registered against him. In this regard, as there is no prayer in the present writ petition, the petitioner is given liberty to file a representation with the respondents to claim, if he has any claim in respect of the period when the petitioner remained under suspension.

In case any representation is filed by the petitioner for the claim during the suspension period, the respondents shall decide the same by passing a speaking order within a period of three months of the receipt of such representation.

The writ petition is allowed in above terms.

December 03, 2018 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

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