

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Civil Writ Petition No.6549 of 2013 (O & M)

Date of Decision: August 01, 2018

Kirpal Singh

..... PETITIONER

VERSUS

State of Punjab & others

..... RESPONDENTS

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

PRESENT: - Mr. Pankaj Sharma, Advocate, for the petitioner.

Mr. Navdeep Chhabra, Deputy Advocate General,
Punjab.

Mr. Gurinderjit Singh, Advocate, for respondent Nos.2 to
4.

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Jaspal Singh, J

By virtue of this civil writ petition, preferred under Article 226/227 of the Constitution of India, petitioner has sought issuance of a writ in the nature of mandamus, directing the respondents to release his retiral benefits including arrears of revised pay scale as well as computation of pension from the date of his retirement/superannuation i.e. April 30, 2011; respondent No.3 be directed to sanction the pension; and respondents be further directed to release the pension and retiral benefits within a stipulated period alongwith interest @ 18% per annum on the delayed payment, from the date of his retirement.

Heard.

As far as grant of pension and retiral benefits is concerned, a perusal of reply by way of affidavit of respondent No.4, Er. Manjit Singh, Senior Executive Engineer (Operation), Zira, PSPCL, District Ferozepur, reveals that pension has been sanctioned vide Pension Payment Order No.29725/11-12 dated June 26, 2013 and all the pensionary benefits have been sanctioned vide GPO No.28802/11-12 and CVO No.10743/11-12 dated June 26, 2013. Lave Encashment was sanctioned by Chief Engineer, West, Bathinda, vide order No.481 dated July 19, 2012. Arrears on account of pay scale w.e.f. January 01, 2006 have been paid vide cheque No.755548 dated July 04, 2013. Commutation of pension was paid vide cheque No.755548 dated July 04, 2013. Further, a cheque baring No.545039 dated July 18, 2018, amounting to ₹ 1,06,927/- towards retiral dues, has been handed over by learned counsel for the respondents to learned counsel for the petitioner, a photostat copy whereof is taken on record.

Concededly, all the pensionary benefits have been released in favour of petitioner. According, instant writ petition has been rendered infructuous as far as grant of retiral benefits is concerned.

As far as grant of interest on delayed payment of retiral benefits is concerned, a writ in the nature of mandamus is legally maintainable for giving a direction to make the payment where it is justified in view of judgment delivered in *A.S. Randhawa vs. State of Punjab & others, 1997(3) SCT 468* as well as *Vijay L. Mehrotra vs. State of U.P., 2000(4) SCT 267*. Gist of aforesaid judgment in the case of *A.S. Randhawa (supra)* is that a writ for direction to pay retiral benefits including interest is maintainable and that pensionary benefits, if released after a delay, entitles

the incumbent to interest at the rate of 12%, which may even go upto 18% per annum. In case **Vijay L. Mehrotra (supra)**, 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.

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.

Adverting to the facts of the case, petitioner retired as Junior engineer on April 30, 2011 on attaining the age of superannuation. However, retiral benefits were sanctioned to him in the year 2013, as detailed above. It is a settled principle that grant of interest on the delayed payment is on account of the fact that retiree was unable to enjoy its fruits immediately on his retirement and then a right accrues to him to be compensated and the only way to compensate him is to pay interest for the period of delayed payment. Now, a question arises as to the period in which the retiral benefits should be disbursed to the retiree.

In case **A.S. Randhawa (supra)**, the 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, a duty is simultaneously cast on the State to ensure the disbursement of pension and other benefits to the retiree in proper time.

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.

As per Instructions dated May 10, 1990 issued by the Government of Punjab, Department of Finance (Finance Personnel III Branch), interest @ 9% per annum shall be paid on all delayed payment of pension and DCRG for the period beyond three months after these benefits become due to the end of the month preceding the month in which the orders for making actual payments are issued to the pensioners concerned.

Undoubtedly, petitioner stood retired on April 30, 2011 and payment of retiral dues was sanctioned in the year 2013. At the most, respondents could have taken a period of three months from the date of retirement during which the payment of retiral benefits should have been disbursed to the petitioner. Taking into consideration the facts &

circumstances of the case in hand, this Court is of the view that grant of interest @ 9% per annum, on the delayed payment after expiry of three months from the date of retirement of petitioner till the payment, is legally and factually justified. Accordingly, this Court awards an interest @ 9% per annum on the delayed payment(s) w.e.f. August 01, 2011 to actual date of payment, which shall be paid by the respondents after calculating the same within a period of three months from the date of receipt of certified copy of this judgment.

Disposed of accordingly.

August 01, 2018
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No