IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-25025-2017
Date of decision: - 20.12.2018

P.K. Bhardwaj

....Petitioner

Versus

Life Insurance of India and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Aditya Bhushan, Advocate
for the petitioner.

None for the respondents.

****

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present case, the petitioner has approached this Court for seeking the interest on the delayed payments.

As per the averments, which have been made in the present writ petition, the petitioner was appointed as a Development Divisional Officer with the respondents in the year 1987 and ultimately, retired as a Chief Manager on 30.04.2016.

Counsel for the petitioner states that there was nothing against the petitioner and no inquiry whatsoever was pending on the date when the petitioner was retired from service on 30.04.2016. In paragraph 4 of the petition, the petitioner has given a detail of the dates on which the amount of pension, gratuity, commutation and leave encashment was released to him. Even though the petitioner was entitled for the release of these benefits immediately after retirement or within a reasonable period, but the same were released after a delay of five months.

Notice of motion was issued on 03.11.2017.

On 30.11.2018, the following order was passed by this Court:-

> Counsel for the respondents seeks time to file the statement.
>
> Present writ petition deals with the grant of interest on the delayed payment. Petitioner has given the details as to when the payments were due and the actual date of disbursement in paragraph 4 of the writ petition.
>
> Last opportunity is granted to the respondents to file the reply within a period of two weeks, after which they will forfeit their right to file the same.
>
> Adjourned to 20.12.2018."

Despite the above reproduced order, no reply has been filed so far and none has chosen to appear to defend the present petition on behalf of the respondents even today.

As the averments made in para No.4 has not been rebutted by the respondents, it can be safely presumed that there was no valid justification with the respondents to withhold the amount after the petitioner retired and there was a delay in releasing the said amount.

As per the law laid down by a Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468** whereby it has already held that the employees will be entitled for the interest on the delayed payments. Further, the said judgment of Full Bench has been followed by this Court in **J.S. Cheema Vs. State of**

Haryana, 2014(13) RCR (Civil) 355, wherein it has been held that if the respondents have retained the amount with themselves for which the petitioner was entitled, the petitioner is entitled for the interest as well. The relevant paragraph of **J.S. Cheema case (supra)** 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 view of the above, the present petition is allowed. The respondents are directed to pay the interest @ 9% per annum on the delayed payments from the day the payment became due till the same were actually disbursed to the petitioner.

Let the calculation be done within a period of two months from the date of receipt of a certified copy of this order and the amount so calculated shall be released to the petitioner within a period of one month thereafter.

(HARSIMRAN SINGH SETHI)
JUDGE

December 20, 2018
naresh.k

Whether reasoned/speaking? Yes
Whether reportable? No