

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.6462 of 2018

DATE OF DECISION:06.12.2018

Gangadhar

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. G.C. Shahpuri, Advocate for the petitioner.

Mr. Sandeep Vermani, Additional Advocate General,

Punjab.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present case, the petitioner is seeking interest on the delayed payments. The facts as averred in the present writ petition are that the petitioner attained the age of superannuation on 31.12.2014. Keeping in view the policy of the State of Punjab for the grant of extension, the petitioner was granted extension for a period of one year from 01.01.2015 to 31.12.2015. The petitioner completed the said tenure and again the petitioner was granted the second extension for one year w.e.f. 01.01.2016 till 31.12.2016.

As per the averments made, due to ill health, the petitioner served a notice to the respondents in January 2016 itself that he will not be able to work for whole of the extended period and sought retirement on 31.03.2016. The said request of the petitioner was accepted and the petitioner retired on 31.03.2016. The next contention which has been raised by the petitioner is that even though the petitioner retired on 31.03.2016, but the gratuity and GPF for which the petitioner was entitled for immediately on retirement were paid after an inordinate delay and the amount was kept by the respondents themselves and hence as per law laid down by this Court in case of **J.S. Cheema Vs. State of Haryana and others**, 2014(1) SCT 782, the petitioner is entitled for interest on the said payment. The relevant paragraph of the judgment is reproduced 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 laying 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.”

Counsel for the respondents is not able to controvert the fact that after the retirement of the petitioner on 31.03.2016, the petitioner was entitled for release of the pensionary benefits.

Counsel for the respondents argued that the calculation of the pensionary benefits were done by the department itself but it was found by the Audit Department that the calculation so done by the department in respect of the gratuity and GPF fund, was not according to the Rules and the same was returned to the department. The department cleared the objection and then again sent the bill to the treasury for the payment and it was under these circumstances, the payment of gratuity and GPF were delayed.

Counsel for the respondents admitted that GPF was paid on 02.06.2017 after a delay of one year and three months and gratuity was paid on 31.10.2017 i.e. after a delay of one year and eight months.

I have heard the counsel for the parties.

The reason which has been given by the respondents to justify the delay is that there was wrong calculation done by the department in respect of the GPF and gratuity for which the petitioner was entitled for. Be that as it may, the same is not attributable to the petitioner at all. If any wrong calculation was done by the department, then the department is responsible for the same and the said act on the part of the department cannot be attributed to the petitioner and cannot cause prejudice to any right of the petitioner.

In view of the above, the present writ petition is allowed. The petitioner is entitled for interest on the delayed payment of gratuity and GPF. The petitioner will be entitled for

gratuity and GPF were made. Let the calculations be done within a period of three months and amount so calculated will be paid to the petitioner within next one month.

The writ petition is allowed in the above terms.

December 06, 2018

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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned: Yes / No
Whether reportable : Yes / No