IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.7551 of 2018
DATE OF DECISION:06.12.2018

Subash Chander **... Petitioner**

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Abhishek Jhamb, Advocate for the petitioner.

Mr. Sandeep Vermani, Additional Advocate General, Punjab.

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HARSIMRAN SINGH SETHI, J. (ORAL)

In the present case, the petitioner has approached this Court for the grant of interest on the delayed payments of pensionary benefits.

As per the averments made in the petition, the petitioner has retired from service on 30.04.2017. After retirement, it has been alleged by the petitioner that General Provident Fund amounting to ₹18,94,340/- was released in his favour on 19.09.2017. The leave encashment of ₹7,74,680/- was released on 08.11.2017 and further death-cum-retirement gratuity amounting to ₹10 lacs was released on 05.12.2017. The petitioner contends that there was delay of 141 days in GPF, 191 days delay in leave encashment and 218 days delay in death-cum-retirement gratuity respectively in release of the amount and there is no valid justification with the respondents to delay the same.

Notice of motion was issued on 26.03.2018.

The respondents have filed the reply. In the reply, the respondents have stated that the department immediately sanctioned the amount for which the petitioner was entitled for but it was only the treasury, which delayed the payments and, therefore, once an amount was sanctioned by the department, the department cannot be made liable for paying of the interest.

I have heard the counsel for the parties.

The above mentioned facts are admitted. Even though the department has sanctioned the amount but the same was not paid to the petitioner till the same was released by the treasury. It is an admitted case that there was no valid justification with the treasury to retain the amount after the bills have already been passed by the department. The treasury is liable to make the payment once the same is sanctioned by the competent authority. The non-payment of the amount by the treasury will only make the department liable because the treasury also belongs to the State of Punjab.

In view of the above, the present writ petition is allowed. As per the law laid down by this Court in case of **J.S. Cheema Vs. State of Haryana and others**, 2014(1) SCT 782, the amount which is retained by the department without any valid justification, the petitioner will be entitled for interest on the same. 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."*

In the present case, the amount for which the petitioner became entitled for, even as per the respondents themselves was only released after delay and that to unexplained delay and, therefore, the petitioner will be entitled for interest @ 9% per annum from the date the amount became due till the same was released to the petitioner. Let the calculations be done by the respondents within three months from the date of receipt of a certified copy of this order. Payment of the monetary benefits will be made within four weeks thereafter.

The writ petition is allowed in the above terms.

December 06, 2018
jt **(HARSIMRAN SINGH SETHI)**
JUDGE

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