279 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-8675-2019
Date of decision: 12.12.2019

RAMESH KUMAR ...PETITIONER

VERSUS

STATE OF PUNJAB AND ORS. ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Abhishek K. Premi, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

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HARSIMRAN SINGH SETHI,J. (ORAL)

In the present writ petition, the claim which is being made by the petitioner is that though the petitioner had superannuated on attaining the age of superannuation on 28.02.2017 but his pensionary benefits were only released starting from November, 2017 till August, 2018 and therefore, the petitioner is entitled for the grant of interest on the delayed payments of pensionary benefits.

Learned counsel for the petitioner argues that the claim of the petitioner for grant of interest has been denied by the respondents vide order dated 25.02.2019 (Annexure P-10) on the ground that the pension papers of the petitioner were submitted late and therefore, there was a delay in the release of pensionary benefits. The said order dated 25.02.2019 (Annexure P-10) is under challenge by the petitioner in the present writ petition.

As per the facts mentioned in the writ petition, petitioner retired as a Divisional Head Draftsman on attaining the age of superannuation on 28.02.2017. Petitioner claims that after the retirement, the Gratuity, Leave encashment, General Provident Fund and GIS amount were released to him after an inordinate delay. The gratuity amounting to Rs. 10,00,000/- was released to the petitioner on 01.11.2017, leave encashment amounting to Rs. 7,06,730/- was also released on 01.11.2017, General Provident Fund amounting to Rs. 4,42,789/- was released to the petitioner on 20.03.2018 and GIS amounting to Rs. 42,748/- was released to the petitioner on 21.08.2018. Counsel for the petitioner argues that as there is an inordinate delay in release of the retiral benefits and that too without there being any impediment, petitioner is entitled for interest on the same.

Upon notice of motion, respondents have filed the reply. In the reply, the respondents have admitted the fact that the DCRG, leave encashment and GIS of the petitioner were approved by the competent authority in March/April, 2017. Further, the respondents have admitted that the bills were sent to the Treasury immediately but the same could not be released before 31.03.2017 and therefore, the bills were returned and were again sent in the next financial year, which were passed by the Treasury in November, 2017 after which, the payments were released to the petitioner. In respect of GIS, the respondents stated that as the information had to be collected from various offices where the petitioner had worked, it took time and ultimately, upon collection of the information from all the offices, the bill was prepared in July, 2018 and the payment was extended to the petitioner on 21.08.2018. The submissions of the respondents is that the delay was only procedural and not intentional. The relevant paragraph of the reply is as under:-

> The respondent no.2 had raised clarifications regarding some amount in G.P. Fund case of the petitioner (Annexure R-3). The final case after clarifications from concerned office dated 27.03.2017 (Annexure R-4) was sent to respondent no.2 by the respondent No.3. The final case after approval was received by the respondent department on 19.09.2017 and as per

sanction, the bill was sent to the respondent no.5 on 19.09.2017. the same was passed vide Vr. No. 97 dated 20.03.2018 and hence the payment was made.

That in case of D.C. R.G. the bill was sent to District Treasury Office, Patiala (respondent No.5) vide bill no. 109 dated 09.03.2017 (Annexure R-5) but it was received back as it could not be passed in the same financial year, i.e., 2016-17. The bill was later sent again by the respondent-department (respondent no.3) to respondent no.5 in the next financial year on 16.05.2017 (Annexure R-6) which was passed vide Vr. No. 80 dated 01.11.2017 by the Treasury (respondent No.5).

That in case of leave encashment the bill was sent to District Treasury Office, Patiala (respondent no.5) vide bill no. 110 dated 09.03.2017 (Annexure R-7) but it was received back as it coud not be passed in the same financial year, 2016-17. The bill was later sent again by respondent department (respondent No.3) to respondent No. 5 in the next financial year on 16.05.2017 (Annexure R-8) which was passed vide Vr. No. 29 dated 01.11.2017 by the Treasury (respondent no.5).

In the case of GIS it is respectfully submitted that information is required from all the offices where an employee (petitioner in this case) has worked through out his service. The last set of information from an office where the petitioner has worked was received by the respondent-department on 09.04.2018 and bill was sent to District Treasury Office, Patiala (respondent no.5) vide Bill No. 56 dated 24.07.2018 (Annexure R-9) for payment which was passed by the treasury (respondent no.5) vide Vr. No. 25 dated 21.08.2018.

Keeping in view of the submissions made in para 1 to 6, there is no intentional delay in the part of respondents No. 1 to 5. If at all there is any delay it is only procedural for which respondent departments 1 to 3 are not at fault.

I have heard the learned counsel for the parties and have gone through the record with their able assistance.

It has been admitted by the respondents that there is a delay in the release of the pensionary benefits of the petitioner but as per the respondents, the same was not intentional but procedural and therefore, petitioner is not entitled for grant of interest. The grant of interest depends upon the fact as to whether there was any impediment in the release of the pensionary benefits or not. The learned counsel appearing on behalf of the respondents clearly states that there was no impediment in the release of the pensionary benefits of the petitioner. In case, there was no impediment, it was incumbent upon the respondents to release the pensionary benefits of the petitioner within a reasonable time after retirement. The reasonable time has also been fixed by the Full Bench of this Court in **A.S. Randhawa Versus State of Punjab and Others 1997(3)SCT 468** wherein, the Full Bench has held that an employee is entitled for the release of the pensionary benefits within a period of two months after retirement and in case the same is not done, employee becomes entitled for being compensated by the grant of interest. The relevant paragraph of the said judgment is as under:-

> "Since 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 retirer in proper time. As to what is proper time will

depend on the facts and circumstances of each case but normally it would not exceed two months from the date of retirement which time limit has been laid down by the Apex Court in M. Padmanabhan Nair's case (supra). If the State commits any default in the performance of its duty thereby denying to the retiree the benefit of the immediate use of his money, there is no gainsaying the fact that he gets a right to be compensated and, in our opinion, the only way to compensate him is to pay him interest for the period of delay on the amount as was due to him on the date of his retirement."

In the present case, the respondents have admitted that in March, 2017 i.e. within a period of one and a half month, the amounts were sanctioned by the competent authority and even bills were sent to the Treasury for the release of the same and it is only because the bills could not be passed in that financial year after 31.03.2017, the bills were returned and same were again sent to the Treasury which were ultimately paid from November, 2017 onwards. The delay in releasing the amount is totally attributable to the respondents and any inaction on the part of respondents cannot cause prejudice to the petitioner and in the present case, it is clear that the retiral benefits have been released to the petitioner after an inordinate delay and therefore, petitioner needs to be compensated for the delay by the grant of interest.

A Co-ordinate Bench of this Court in **J.S. Cheema Versus State of Haryana 2014(13) RCR (Civil) 355**, has held that where an amount which an employee was entitled for was retained and used by the department employee becomes entitled for interest. The relevant paragraph of the said judgment 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 the present case, the amount for which the petitioner became entitled for upon his retirement in February, 2017, has been retained and used by the respondents and therefore, even as per **J.S. Cheema's case (supra)**, petitioner is entitled for interest.

Keeping in view the above, the writ petition is allowed. The impugned order dated 25.02.2019 (Annexure P-10) is set aside. Petitioner is held entitled for interest @ 9% per annum from the date the amount became due till the same was actually released to the petitioner. Let the amount of interest under this order be calculated by the respondents within a period of two months from the receipt of the certified copy of this order and the amount so calculated will be released to the petitioner within a period of one month thereafter.

The present writ petition stands allowed in above terms.

12.12.2019 **(HARSIMRAN SINGH SETHI)**
renubala **JUDGE**

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