IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 11437 of 2015
Date of Decision : 16.01.2019

Dr. Naresh Nagpal
...Petitioner

Versus

State of Punjab and others
...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Puneet Gupta, Advocate for the petitioner.

Ms. Deepali Puri Sandhu, Addl. A.G., Punjab.

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Harsimran Singh Sethi, J.(Oral)

The present writ petition has been filed by the petitioner challenging the order dated 11.12.2014 (Annexure P-7) by which in reply to the legal notice submitted by the petitioner, the respondents have declined to grant the interest on the delayed payments. It is this communication dated 11.12.2014, which has been impugned in the present writ petition.

As per the facts which have been mentioned in the writ petition, the petitioner was appointed as a Lecturer in 1975. Thereafter, in the year 1992, he was promoted as a Principal and again in the year 2003, he was promoted as Additional Director. While working as Additional Director, the petitioner retired on attaining the age of superannuation on 31.08.2010. As per the pleadings, the petitioner was issued a charge-sheet on 12.05.2010 and thereafter another show cause notice was issued to the petitioner on 06.08.2012 (Annexure P-3). Keeping in view the charge-sheet and the show cause notice, the pensionary benefits of the petitioner were stopped. Though initially the petitioner was given 90% of the provisional pension, which was later on enhanced to 100% provisional pension.

As per the admitted facts, the charge-sheet dated 12.05.2010 was dropped by the respondents on 12.10.2012 (Annexure P-2) and the show cause notice issued to the petitioner on 06.08.2012, was dropped on 24.03.2014. It was only after that the charge-sheet as well as show cause notice were dropped, the case of the petitioner was considered for the grant of pensionary benefits.

As per the admitted facts, the gratuity amounting to ₹10 lacs was paid to the petitioner on 22.05.2014 and the commutation of pension amounting to ₹13,04,109/- was paid to the petitioner on 13.06.2014.

Learned counsel for the petitioner states that the benefits were released to the petitioner approximately after a period of four years of his retirement and, therefore, the petitioner is entitled for the interest on the delayed release of the payment.

The claim of the petitioner is contested by the respondents by filing a written statement, wherein, it has been mentioned that there was a valid justification to withhold the pensionary benefits of the petitioner on account of issuance of charge-sheet dated 12.05.2010 as well as show cause notice dated 06.08.2012. Therefore, after the proceedings came to an end on 24.03.2014, immediately the action was taken for release of the pensionary benefits. Hence, it cannot be said that there was any delay on the part of the respondents in releasing the payment.

I have heard learned counsel(s) for the parties and have gone through the record.

Though the petitioner was issued a charge-sheet on 12.05.2010 and a show cause notice on 06.08.2012 but those proceedings were dropped by the respondents themselves after ascertaining that the allegations as alleged in the charge-sheet and in the show cause notice were not correct. The issuance of the charge-sheet and the show cause notice by the respondents themselves cannot be a ground to deny the legitimate right of the petitioner. It is the respondents, who issued the charge-sheet and the show cause notice and for their own act, the pensionary benefits were stopped delayed, which is not permissible.

Once the respondents themselves found nothing in the charge-sheet or in the show cause notice, that cannot be made a ground to give a justification to deny the interest on the amount, which the respondents had retained with themselves for about four years.

As per the settled principle of law settled by the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab,*** 1997 (3) SCT 468, the amount which has been retained by the respondents and there is a delay in releasing the same, the employee will be entitled to 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 the 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."*

Furthermore, in the case of ***J.S. Cheema Vs. State of Haryana and others,*** 2014(13) RCR (Civil) 355**,** this Court had held that an employee will be entitled for the interest of an amount which has been retained by the respondents without any valid justification. The relevant paragraph of the judgment reads 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."*

Though the justification is being given by the department in respect of the issuance of the charge-sheet and the show cause notice but as the respondents themselves found that there was no material to support the allegations mentioned in the charge-sheet and the show cause notice and both the proceedings were dropped, the same act cannot cause prejudice to the petitioner to claim interest on the amount which the petitioner was otherwise entitled for immediately on the day when he attained superannuation on 31.08.2010.

In view of the above, the present writ petition is allowed. The respondents are directed to compute the interest on the payments, which have been made to the petitioner. Let the computation be done within a period of three months from the date of receipt of certificate copy of this order. The amount computed so, shall be released to the petitioner within a period of one month thereafter by granting him interest @ 9% per annum.

January 16, 2019 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No