IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-10783-2016
Date of decision: - 16.10.2019

Gurtej Singh

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. B.S. Mittal, Advocate
for the petitioner.

Ms. Sunint Kaur, Assistant Advocate General, Punjab.

Mr. S.C. Pathela, Advocate
for respondent No.3.

Ms. Meena Bansal, Advocate
for respondent No.4.

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HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the grievance of the petitioner is that all the pensionary benefits for which he is entitled for upon retirement have not been released. The prayer is for issuance of direction to respondent No.3-Municipal Council, Sunam, District Sangrur for the release of the pensionary benefits alongwith interest for the period he worked with respondent No.3.

Learned counsel for the petitioner submits that during the pendency of the writ petition, petitioner has already received the full and final payment for which he is entitled for under the rules governing the service. The claim of the petitioner, which survives is that the retiral benefits were delayed by the respondents without any valid justification and therefore, he is entitled for the interest on the said delayed payments.

As per the averments made in the writ petition, petitioner retired as an Inspector from Municipal Council, Sanour i.e. respondent No.4 on 28.02.2015. Prior to being transferred to the Municipal Council, Sanour, petitioner was working with respondent No.3-Municipal Council, Sunam. After the retirement, the retiral benefits of the petitioner are to be released by Municipal Council, Sanour from where the petitioner has retired, but the Municipal Council, Sunam, where the petitioner had worked before his transfer, are to contribute their share for the service rendered by the petitioner with respondent No.3, while making the payment of the retiral benefits. The claim of the petitioner is that though he retired on 28.02.2015, but the payment of ₹5,00,000/- was released to him on 20.08.2015 and another payment of ₹9,30,683/- was released to him on 29.01.2016 and, therefore, he is entitled for the interest on these delayed payments of retiral benefits.

Learned counsel appearing on behalf of respondent No.4 states that the payment of ₹5,00,000/- which was the share of respondent No.4 was released to the petitioner within a period of six months of his retirement and rest of the payment could not be released to him because respondent No.3, where the petitioner had worked for the major portion of his service career, did not release their contribution and it was only in the month of January, 2016, respondent No.3 released the required payment to respondent No.4, which was forwarded to the petitioner immediately and therefore, no grievance can be raised by the petitioner against respondent No.4 in respect of the payment of ₹9,30,683/-, which was released after delay by the Municipal Council, Sunam i.e. respondent No.3.

Learned counsel for respondent No.3 states that once the payment has been released to the petitioner, no grievance can be raised by the petitioner as the time was consumed to complete the formalities, therefore, petitioner is not entitled for interest.

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

The question of law in respect of grant of interest on the delayed payment of retiral benefits has already been settled by the Full Bench of this Court in **A.S. Randhawa** **Vs**. **State of Punjab and others**, **1997(3) SCT 468,** wherein, it has been held that the amount for which an employee becomes entitled on account of retiral benefits is to be released within a reasonable time and reasonable time fixed by this Court is two months from the date of retirement and in case, retiral benefits have been retained by the respondents and that too without any justifiable reason, the employee will be entitled for 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 front 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."

Even otherwise, a Co-ordinate Bench of this Court in **J.S. Cheema** **Vs**. **State of Haryana, 2014(13) RCR (Civil) 355,** has held that an employee will be entitled for the interest on an amount, which has been retained and used by the respondents without any valid justification. The relevant paragraph of **J.S. Cheema's 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 the present case, the amount, which was due to the petitioner after his retirement, has been retained and used by the department, therefore, petitioner will be entitled for interest on this score also. Moreover, it is not disputed that payments, which have been released either by respondent No.3 or by respondent No.4, are beyond the reasonable time of two months as fixed by the Full Bench of this Court in **A.S. Randhawa's case (supra)**, therefore, the petitioner is entitled for interest on the said delayed payments, to be paid by respondent No.3 as well as respondent No.4 qua their shares, which they have released in favour of the petitioner.

In view of the above, the writ petition is allowed. The claim of the petitioner for the grant of interest is allowed and the petitioner is held entitled for the interest @ 9% per annum from the date the amount became due till the payments were actually released to the petitioner by respondents No.3 and 4.

It is clarified that on the amount of ₹5,00,000/-, which was paid in August, 2016, the interest shall be paid by respondent No.4 and with regard to the payment of ₹9,30,683/-, the interest shall be released by respondent No.3.

Let the calculation of the amount of interest be done by respondents No.3 and 4 within a period of two months from the date of receipt of a certified copy of this order and the actual amount, so calculated, shall be released to the petitioner within one month thereafter.

Present writ petition stands disposed of in the above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

October 16, 2019
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Whether reasoned/speaking? Yes
Whether reportable? Yes