IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-10958-2016
Date of decision: - 25.11.2019

H.C. Arora

....Petitioner

Versus

UHBVN and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: - Mr. Parminder Singh, Advocate
and Mr. Vikram Bali, Advocate
for the petitioner.

Mr. Pardeep Rajput, Advocate
for the respondents.

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HARSIMRAN SINGH SETHI, J. (ORAL)

The grievance which is being raised by the petitioner in the present writ petition is for the grant of interest on the delayed release of the benefits released in pursuance of the recommendations of the 6^{th} Pay Commission, by which the pay scales of the employees of the Government of Haryana as well as pension of the retirees were revised in the year 2009.

As per the averments made in the writ petition, petitioner joined as a Lineman Superintendent in August, 1968 and was promoted on the post of Sub-Divisional Officer in the year 1989. Thereafter, petitioner was further promoted as Assistant Executive Engineer in the year 2004 and was given the pay-scale of Superintending Engineer and he retired from service on attaining the age of superannuation on 31.07.2004.

After the retirement of the petitioner, the recommendations of the 6th Pay Commission for revising the pay and pension of the employees and retirees were made. Recommendations of the Pay Commission were accepted by the Government of Haryana in the year 2009 and the same were made applicable upon the employees of the respondent-Nigam as well w.e.f. 01.01.2006.

As per the recommendations of the 6th Pay Commission, which have been adopted by the respondents, a pensioner was entitled for 50% of the minimum of the pay band + grade pay granted to the post from which the employee has retired, as pension. The claim of the petitioner is that keeping in view the recommendations made by the 6th Pay Commission, which are duly accepted by the respondents, he was entitled for the enhancement of his pension from ₹16803/- to ₹23050/- w.e.f. 01.01.2006. As the benefits were not being extended to the petitioner, he started filing the representations and one such representation dated 28.04.2014 (Annexure P-2) has been attached with the present writ petition. Ultimately, the petitioner was granted the benefit in July, 2014 and the arrears of the pension were also released in his favour. As the benefits were released to the petitioner after a period of five years, he filed a representation with the respondents on 07.12.2015 (Annexure P-4), claiming the interest on the delayed release of the arrears of the revised pension. As the said benefit of interest was not extended to the petitioner, he has approached this Court by filing the present writ petition claiming the interest on the delayed release of the arrears of the revised pension.

Upon notice of motion, reply has been filed by the respondents.

In the reply, the respondents have stated that the benefit for which the petitioner was entitled have already been released to him, vide cheque No.226060 dated 31.07.2014 and an amount of ₹6,95,842/- has been paid to the petitioner after deducting ₹1,00,000/- as TDS. Further, with regard to grant of interest, the respondents have stated that as the petitioner had raised his claim in April, 2014 and within a period of three months of raising of the said claim, the benefits were extended to the petitioner, hence, he not is entitled for the interest.

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

It is an admitted fact that keeping in view the revision of the pay-scale and the pensionary benefits, petitioner became entitled for the enhanced pension w.e.f. 01.01.2006. This benefit of the revision of pension was granted by the Government of Haryana to its employees though in the year 2009, but w.e.f. 01.01.2006 and the same benefit was extended by the respondent-Nigam to its employees as well. Once, the pay-scales as well as the pensionary benefits are revised, it becomes the duty of the respondent-Nigam to grant to the employees whether serving or retired the benefit of the said revision on its own. The stand of the respondents that a retiree had to approach the department claiming the revision of the pensionary benefits cannot be accepted. Once, the benefit has been granted by the respondents to the similarly situated employees, it becomes their duty to release the benefits to each and everyone, who becomes entitled for keeping in view the decision, which they have taken.

In the present case the petitioner had become entitled for the revised pension w.e.f. 01.01.2006 as the respondent-Nigam had accepted the recommendations of the 6th Pay Commission. No justification has been given as to why, once the benefits were extended in the year 2009, the arrears were only released to the petitioner in July, 2014 i.e. after a period of approximately five years. The reason which has been given by the respondents that the petitioner approached the respondents only in April, 2014 claiming the revised pension, is not a valid ground to deny the interest. The amount for which the petitioner became entitled in the year 2009 was retained by the respondents for a period of five years and was only released to the petitioner in July, 2014. This delay has caused prejudice to the petitioner as he was unable to utilize the amount for a period of five years.

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 is held entitled for interest on this score also. Therefore, the case of the petitioner is squarely covered by the above-said decision for the grant of interest on the delayed release of the amount for which the petitioner became entitled on account of the revision of the pension in the year 2009, was only released to him alongwith arrears in July, 2014, therefore, he is held entitled for interest @ 9% per annum from the date of expiry of two months from the recommendations of 6th Pay Commission were accepted by the respondent-Nigam, till the payment was actually released to the petitioner by the respondents.

Let the calculation of the amount of interest be done by the respondents 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

November 25, 2019
naresh.k

Whether reasoned/speaking? Yes
Whether reportable? Yes