IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.11638 of 2016
DATE OF DECISION:01.05.2019

Pawan Kumar Aggarwal

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sandeep Arora, Advocate for the petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

****

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the grievance of the petitioner is that all the retiral benefits for which the petitioner was entitled for after his retirement on 15.01.2015 have not been released to the petitioner in reasonable time and, therefore, the petitioner is entitled for interest on the said delayed payments.

As per facts mentioned in the writ petition, the petitioner joined as Sub Divisional Engineer with the respondent department on 30.10.1983 and he was later on promoted as Executive Engineer in the year 1995. While working as Executive Engineer, petitioner attained the age of 58 years on 30.11.2013. Petitioner was granted extension from 01.12.2013 till 30.11.2014 and thereafter the petitioner was also granted second extension but the petitioner only worked upto 15.01.2015 and sought retirement, which request was accepted.

During the service career of the petitioner, the petitioner was served with a chargesheet on 24.07.2009, which was pending against the petitioner even when the petitioner retired on 15.01.2015. All the pensionary benefits for which the petitioner was entitled for were not released within time frame and were withheld. Petitioner issued a legal notice to the respondents for the release of the same but as the request of the petitioner was not accepted, petitioner filed the present writ petition seeking the release of the pensionary benefits alongwith interest.

Upon notice of motion, the respondents filed the reply to the claim of the petitioner. In the reply, it has been mentioned that there was a charge-sheet pending against the petitioner and the said chargesheet was only dropped by the department on 30.01.2017 and, thereafter, the benefit of leave encashment, which was withheld, has been released and, therefore, as all the benefits have been released to the petitioner, hence the grievance of the petitioner stands redressed.

The petitioner filed a rejoinder/replication to the said reply claiming that the pensionary benefits of the petitioner were delayed. It has been stated in the rejoinder that amount of General Provident Fund was paid to the petitioner on 09.03.2016 amounting to ₹31,19,025/-, amount of General Insurance amounting to ₹1,04,084/- was paid on 31.03.2016, commuted value of the pension amounting to ₹9,13,959/- was paid on 1.8.2017 and the pension was paid to the petitioner along with arrears amounting to ₹3,26,723/- on 01.09.2017, Further, the gratuity amounting to ₹10 lacs was paid on 29.11.2017 and the amount of leave encashment amounting to ₹13,26,360/- was paid on 05.12.2017.

Counsel for the petitioner states that all the pensionary benefits have been delayed without any valid justification, hence petitioner is entitled for interest on the said delayed payments.

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

The only ground taken by the respondent for the delayed release of the pensionary benefit is the pendency of a chargesheet, which was issued to the petitioner on 24.07.2009. Even if chargesheet is pending, the respondents were under obligation to release all the benefits except gratuity and leave encashment. A bare perusal of the factual averments noted above would show that all the payments for which the petitioner was entitled for upon his retirement in January, 2015, were paid starting from March, 2016 onwards till December, 2017. No valid justification has been given as to why the GPF was released on 09.03.2016 after the delay of one year and two months; the amount of GIS was paid to the petitioner on 31.3.2016 after the delay of one year and two months and the commuted value of pension in August, 2017 after a delay of approximately two and half years after his retirement. Further arrears of pension was paid in September, 2017 after another unexplained delay of approximately more than two and half years.

Further, from the facts noticed above, the chargesheet issued to the petitioner was dropped by the respondents meaning thereby that the allegations which were alleged in the chargesheet could not be substantiated by the respondents during the enquiry proceedings. Once, the chargesheet was served upon an allegation which could not be substantiated by the respondents, no benefit can be derived by the respondents on account of pendency of chargesheet, as the same can cause prejudice to the petitioner. Due to the wrong allegations alleged against the petitioner, the benefits, which the petitioner was entitled for immediately upon his retirement in January, 2017, were delayed by the respondents because of issuance of the chargesheet on the allegation which the respondents could not substantiate, hence petitioner is entitled to be compensated for the said act by granting him the benefit of interest.

As per the decision rendered by the Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab 1997(3) SCT 468,** the petitioner is entitled for interest as no valid justifiction has been given by the respondents qua the delayed release of the retiral benefits to the petitioner. In the absence of any valid justifiction, the petitioner claims that he is entitled for interest on the delayed payments.

The claim of the petitioner is squarely covered by the decision rendered by the Full Bench in **A.S. Randhawa's case** as mentioned above. The relevant para 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."

Not only this, a co-ordinate bench of this Court while deciding **J S Cheema Vs. State of Haryana and others, 2014(13) RCR (Civil) 355** also held that once the amount has been retained, the employee will become entitled for the grant of interest. The relevant para of the said order 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 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."

From the perusal of the facts narrated above, there is no valid justification which has come out from the respondents to delay the release of the pensionary benefits. The chargesheet cannot be a ground to deny the benefit of interest as the said chargesheet was dropped by the respondents due to the non-substantial allegations.

In view of the above, the petitioner is found entitled for interest @ 9% per annum from the date the said amount became due till the actual disbursement of the same. Let the interest be calculated within a period of two months from the date of receipt of a certified copy of this order and the actual payment of the calculated amount be released to him within a period of one month thereafter.

The writ petiton stands allowed in the above terms.

May 01, 2019
jt **(HARSIMRAN SINGH SETHI)**
JUDGE

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