IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 13650 of 2014 (O&M)
DATE OF DECISION : 13.05.2019

Dalbara Singh

...Petitioner

versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. V. K. Sharma, Advocate,
for the petitioner.

Ms. Ambika Sood, DAG, Punjab.

Dr. Puneet Kaur Sekhon, Advocate,
for respondents No.2 and 3.

ARUN MONGA, J. (ORAL)

CM NO. 938 OF 2018

For the reasons mentioned in the application, same is allowed and Annexures R-7 to R-9 are taken on record, subject to all just exceptions.

MAIN CASE

1. Prayer herein, *inter-alia*, is for grant of interest to the petitioner on the delayed payment of his retiral benefits. He superannuated on 30.04.2009 as Associate Professor from respondent No.3/Mata Gujri College, Fatehgarh Sahib.

2. Having gone through the pleadings and after hearing learned counsels for the parties, the conceded position as per the

conjoint reading of the written statements filed by respondent No.1 and respondents No.2 and 3, is that the post on which the petitioner was working is an aided post under the grant-in-aid scheme. As per the recommendations of the 5^{th} Pay Commission, the petitioner was entitled for revision of his pay-scale with effect from 01.01.2006. Accordingly, the gratuity, leave encashment and arrears of pay-scale, including the arrears of retiral benefits, were calculated and 60% payment thereof was disbursed to the petitioner within a month of the same having been remitted to respondent No.3/college on 16.02.2013 by respondent No.1 and disbursed to the petitioner within 29 days. The balance 40% amount of the arrears was received from Director Public Instructions on 02.04.2013 and disbursed to the petitioner within 08 days.

3. It is the case of respondents that the petitioner was given all the retiral benefits within five months of his having retired and therefore, there is no delay on their part.

4. However, I find that the stand of the respondents does not stand judicial scrutiny and is not tenable. Admittedly, the date of entitlement of the petitioner for grant of arrears towards revised pay-scale including the revised retiral benefits was 30.04.2009. While a reasonable delay in granting the benefits from the date of entitlement is justifiable towards time taken for correspondence between respondent No.1 and respondents No.2 and 3. But, delay of four years by no stretch of imagination can

be termed as reasonable. The petitioner cannot, therefore, be put in detrimental position, for denial of interest, on account of delay caused by the respondents. It is settled position of law that retiral benefits are not a bounty but a matter of right. Any unreasonable delay in disbursement of same is necessarily to be visited by the interest on the delayed period. The benefit of delay must accrue to the employee and not to the employer.

5. Even otherwise, having gone through the impugned order dated 07.04.2014 (Annexure P-4) I am of the view that it is as cryptic and non-speaking, as it could have been. The only reasoning given for denial of interest to the petitioner is that in an earlier round of litigation while giving liberty to the petitioner, this Court did not give any direction to the respondents for grant of interest and therefore, the petitioner is not entitled to seek the same. The petitioner had earlier approached this Court seeking directions qua disbursement of his retiral benefits and pursuant to which, this Court while disposing of the said petition as infructuous , granted liberty to the petitioner to claim interest on the delayed payment from the respondents. The reasoning assigned in the impugned order is completely farcical, to say the least.

6. In view of my above discussion and the reasoning contained therein, the impugned order dated 07.04.2014 (Annexure P-4) is set-aside and the respondents are directed to grant interest to the petitioner at the rate of 8% on the delayed

payment of his arrears on his pay owing to revision of pay-scale in 5th Pay Commission, as also retiral benefits. The interest shall be calculated with effect from the date of entitlement i.e within three months of the date of his retirement till actual date of its disbursement. It is made clear that the liability to pay interest shall be borne in proportion to the liabilities of the respondents. Respondent No.3 is a grant-in-aid college, therefore, respondents No.1 and 3 shall be liable in the ratio of 95:5 respectively.

7. Let the needful be done within three months from the date of receipt of certified copy of this order. In case the petitioner is not paid the amount within three months, he shall be entitled to compensatory penal interest of 15% per annum.

(ARUN MONGA)
JUDGE

MAY 13, 2019
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No