IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-13223-2016
Date of Decision: - 02.12.2019

Vijay Dogra

.....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. R.S. Manhas, Advocate
for the petitioner.

Ms. Sunint Kaur, Assistant Advocate General, Punjab.

Mr. Naresh Gopal Sharma, Advocate
for respondents No.3 and 4.

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HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the grievance which is being raised is that though petitioner had retired on attaining the age of superannuation on 31.03.2015, but his pensionary benefits were delayed and most of the benefits were released starting from January, 2016 onwards till April, 2016. The prayer of the petitioner is for the grant of interest on those delayed release of his retiral benefits.

Learned counsel for the respondents submits that delay is attributable to the petitioner as he submitted the pension papers in June, 2015 only and therefore, the benefits could not be released to him immediatley upon his retirement, hence, the claim of interest is liable to be rejected.

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

It is not disputed that petitioner retired from service on attaining the age of superannuation on 31.03.2015. After the retirement, petitioner was paid a sum of ₹2,26,190/- on 28.05.2015 and another amount of ₹1,00,000/- was paid on 15.07.2015. Thereafter, starting from January, 2016, petitioner was paid a sum of ₹2,00,000/- each in the month of January, February and March and the remaining amount of ₹5,08,652/- was paid in April, 2016. The assertion of the respondents that the petitioner submitted the pension papers in June, 2015 is incorrect for the reason is that in May, 2015 petitioner was released a sum of ₹2,26,190/-. In case the pension papers had not been received by the respondents, then how come a sum of ₹2,26,190/- has been released on account of pensionary benefits. Further, only an affidavit was submitted by the petitioner, which is otherwise an undertaking to the effect that in case, any excess amount is received by the petitioner, the same will be returned. The said undertaking cannot be termed as pension papers.

Once, it is admitted by the respondents that the payments were released to the petitioner starting from January, 2016 onwards and there was no impediment in the release of the pensionary benefits as there was no disciplinary proceeding or criminal proceeding pending against the petitioner so as to entitle the respondents to withhold the pensionary benefits, the delay in release of the pensionary benefits is attributable to the respondents themselves. Merely because of non-filing of an undertaking, the pensionary benefits could not have been withheld by the respondents. Further, it is not the case that the petitioner was asked to submit this affidavit at the time of retirement. Therefore, the argument that the delay is attributable to the petitioner, is incorrect and cannot be accepted.

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 the Full Bench of 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."

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 delay is beyond the reasonable time as fixed by the Full Bench of this Court in **A.S. Randhawa's case (supra)**, therefore, the petitioner needs to be compensated by an award of interest on the delayed payments. Further, there was no valid justification in retaining the amount and therefore, even as per the **J.S. Cheema's case (supra)**, case of the petitioner is covered in his favour.

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 release of the same. This interest will only be applicable upon the payments, which have been released starting from

January, 2016 only and no interest will be applicable upon the payments, which have been released in the months of May, 2015 and July, 2015 amounting to ₹2,26,190/- and ₹1,00,000/- respectively.

Let the calculation of the amount of interest be done 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 allowed in the above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

December 02, 2019
naresh.k

Whether reasoned/speaking? Yes
Whether reportable? No