**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 14269 of 2016
Date of Decision : 01.02.2019**

Charan Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Harnek Singh, Advocate for the petitioner.

Ms. Deepali Puri Sandhu, Addl. A.G., Punjab
for respondent No. 1.

Mr. Anil Sharma, Advocate for respondents No. 2 and 3.

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Harsimran Singh Sethi, J.(Oral)

The present writ petition was filed by the petitioner claiming his retiral benefits.

As per the averments made in the present writ petition, the petitioner superannuated on 31.01.2006. Learned counsel for the petitioner stated that though the petitioner was entitled for the benefits immediately on retirement, the same were not released to him without any valid justification.

Learned counsel for the respondents in their short reply filed today, have admitted that services of the petitioner were terminated on 09.08.2002, which action was challenged by the petitioner by raising a demand before the learned Labour Court.

Learned Labour Court vide award dated 13.9.2012 (Annexure P-1), set-aside the order of termination and re-instated the petitioner and the punishment of stoppage of three annual increments with cumulative effect was imposed upon him.

Learned counsel for the petitioner states that the petitioner became entitled for the pensionary benefits only after the award was given by the learned Labour Court on 13.9.2012 by which the petitioner was to be treated as retired w.e.f. 31.01.2006.

The relevant portion of the reply is as under:-

> *"4. That at the very outset, it is humbly submitted that the petitioner was appointed as driver on 15.01.1979. Thereafter, the services of the petitioner were terminated on 09.08.2002 on the ground of absence from duty and proper enquiry was held. The petitioner raised the industrial dispute and the petitioner himself admitted the charges leveled against him. But the Ld. Labour Court vide Award dated 13.09.2012 reduced the punishment of termination by reinstating the petitioner and further 3 annual increments were stopped with cumulative effect.*
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> *5. That it is relevant to mention that as per the records of the Corporation, the date of superannuation of the petitioner is 31.01.2006 and the Award of Ld. Labour Court is dated 13.09.2012.*
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> *6. That the petitioner has been released all the retiral benefits including the arrears which comes to Rs. 8,91,754/- and after deductions of TDS of Rs. 89,175/- the balance amount of Rs. 8,02,579/- has been paid to the petitioner vide cheque No. 339127 dated 07.06.2018. Even the gratuity amounting to Rs. 1,19,925/- has been paid to the petitioner on 10.08.2018.*
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> *7. That the petitioner never applied for grant of pension to*

the office of deponent. The case of the petitioner was processed and all the retiral benefits including the arrears have been released to the petitioner as detailed in the forgoing Paras at its own level by the deponent."

Learned counsel for the petitioner states that though a statement has been made that benefits have been released but the same should have been released immediately after the Award was passed by the learned Labour Court in the year 2012, after which the petitioner became entitled for the pensionary benefits and there is a delay in release of the same, for which the petitioner is entitled for interest.

Learned State counsel as well as counsel for respondents No. 2 and 3 state that the petitioner should have approached the respondents for the grant of relief but as the petitioner did not approach, he is not entitled for the interest.

Learned counsel for the petitioner states that the petitioner did approach the respondents for filling up the pension papers.

I have heard learned counsel(s) for the parties and have gone through the record.

There is no averment in the reply that the pensionary benefits were delayed due to non-cooperation of the petitioner or non-submission of any required document, which was necessary for release of the pensionary benefits to the petitioner. Further, for the release of the gratuity and provident fund, no signatures of the petitioner are needed still further, the position remained the same as on today when the respondents themselves have released the pensionary benefits to the petitioner.

Further, the amount remained with the respondents from the year 2012 till the year 2018 when the same has been released. As per the settled principle of law settled by this Court in ***J.S. Cheema Vs. State of Haryana and others, 2014(13) RCR (Civil) 355,*** if an amount is retained by the department, the employee will be entitled for interest on the same. The relevant paragraph of the said judgment 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 view of the above, the present writ petition is allowed. The petitioner is held entitled for interest @ 9% per annum from 01.10.2012 onwards till the same is paid to the petitioner.

February 01, 2019 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

Whether speaking/reasoned? *Yes*
Whether reportable? *Yes*