IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

(259) **CWP-11162-2017**
Date of Decision: March 14, 2019

Mohinder Pal **.. Petitioner**

Versus

State of Punjab and others **.. Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.S. Rangpuri, Advocate, for the petitioner.

Ms. Deepali Puri Sandhu, Addl. A.G., Punjab.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the grievance of the petitioner is that the petitioner be paid interest on the delayed release of the pensionary benefits as per the settled principle of law settled by the full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab, 1997(3) S.C.T. 468.***

As per the facts stated in the writ petition, petitioner was serving as a Veterinary Inspector, who sought voluntarily retirement vide his application dated 21.01.2016. By the said application, the petitioner gave three months' notice. The respondents allowed the said application and retired the petitioner voluntarily on 30.04.2016. After the retirement, the petitioner sought the release of the benefits for which he was entitled for, but the said benefits were not released immediately. In paragraph 12 of the writ petition, the following averments have been made:

> " *12. That in this way, though the petitioner was retired on 30.04.2016, but the delay has been caused in payment of retiral benefits without any fault of the petitioner. The details of the amount and delayed period are illustrated as under:*

Head	Amount (in Rs.)	Date of receipt of payment	Delayed period
Leave Encashment	5,21,200/-	03.12.2016	8 months
Gratuity	8,60,013/-	05.12.2016	8 months
Commuted value of pension	3,73,737/-	Aug. 2016	4 months
G.P.F.	12,46,457/-	25.05.2017	1 year
Monthly pension	11,900/-	24.08.2016	4 months

Notice of motion was issued on 22.05.2017 and reply has been filed by the respondents.

In the reply, the factual aspect with regard to the delayed release of the payment has been admitted but it has been mentioned that the delay is beyond the control of the respondents as the actual payment is to be released by the Treasury on the basis of the priority. The relevant portion of the reply is as under:-

> *"2. That it is respectfully submitted that the Gratuity bill of Rs.860013/- submitted by the respondent No.3 vide this office token NO.7617 dated 16.09.2016, which was passed on 05.12.2016 by the respondent No.5 i.e. District Treasury Officer, Moga (as appended annexure R-1). The PPO No.1116054826/Pb of the petitioner received in the office of the respondents on dated 05.09.2016 and the same was sent to the Bank of the petitioner vide its No.999 dated 06.09.2016.*
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> *3. That it is respectfully submitted that bill of Leave Encashment bill of the petitioner to the tune of Rs.5,21,220/- received in the office of the respondent vide this office token No.4788 dated 19.07.2016. which was passed by the respondent on dated 02.12.2016 (as appended Annexure R-2), It is pertinent to mention here that if any delay it is*

beyond the control of the respondent No.5. It is further submitted that as per the department of Finance vide its letter No. TA/D2/Standing Order/10/08/1547 dated 04.02.2009 (as appended Annexure R-3) any bill can be withheld as per priority and commuted pension 9,73,737/- sent to the State Bank of India vide dispatch No.1000 dated 06.09.2016 (as appended Annexure R-4). It is respectfully submitted that the GPF bill amounting Rs.12,46,457/- received vide Token No.15027 dated 07.03.2017 and again vide its Token No.717 dated 18.04.2017, which was passed by the respondent No.5 on dated 15.05.2017 (as annexed annexure R-5). It is further submitted that there is no delay on the part of the respondent, so the petition is liable to be dismissed on this score alone."

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

It is an admitted fact that the petitioner retired on 30.04.2016. Upon retirement within a reasonable time, the petitioner should have been paid his pensionary benefits. A bare perusal of the averments made in the writ petition would show that there is a delay ranging from four months to over an year in the release of the pensionary benefits. No valid justification has been given by the respondents except that the delay happened in Treasury, wherein the benefits are to be released on the basis of the priority. By this averment, the respondents have treated that the release of the pensionary benefits is not a priority as per them, which is unfortunate. A retired employee has no other source of income but to rely upon the pensionary benefits to survive as it can be well imagined that in these hard days without the benefits, which an employee gets upon retirement, how can an employee have a decent living.

Further, a Full Bench of this Court in ***A.S. Randhawa's case (supra)***, has held that where the pensionary benefits of an employee has been delayed without any valid justification, the employee will be entitled for the interest. The relevant portion 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. Padmanbhan 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 Coordinate Bench of this Court while deciding ***J.S. Cheema Vs. State of Haryana and others, 2014 (1) S.C.T. 782***, has held that in case an amount for which the employee is entitled for, has been retained by the department and used, the employee will be entitled for the interest on the same. The present case of the petitioner is squarely covered by the above said two judgments and therefore the petitioner is held entitled for the interest on the delayed release of the payments as there is no valid justification given by the respondents for the delayed release of the pensionary benefits.

The present writ petition is allowed. The petitioner is entitled for payment of interest at the rate of 9% per annum from the date it became due till the same was actually released. Let the amount of interest be calculated by the respondents for which the petitioner is entitled for, within a period of two months from the receipt of copy of this order and whatever the amount the petitioner is found entitled for as interest after the said computations, shall be released to the petitioner, within a period of one month thereafter.

(HARSIMRAN SINGH SETHI)
JUDGE

March 14, 2019
harsha

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