IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-10085 of 2018
Date of decision: 29.10.2019

Satnam Singh .... Petitioner

versus

State of Punjab and another .... Respondents

CORAM:HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vipin Mahajan, Advocate
for the petitioner.

Ms. Sunint Kaur, AAG, Punjab.

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HARSIMRAN SINGH SETHI, J. .

In the present writ petition, the claim of the petitioner is that though the petitioner retired on attaining the age of superannuation on 31.01.2017, but the pensionary benefits were not released to the petitioner within a reasonable time after his retirement and, therefore, for the delay in the release of pensionary benefits, he needs to be compensated by way of grant of interest.

As per the averments made in the writ petition, the petitioner was appointed as junior Draftsman on 08.12.1981, thereafter, he was promoted as Draftsman on 26.05.2014 and he ultimately retired on 31.01.2017 on attaining the age of superannuation. It is the case of the petitioner that at the time of his retirement, there were no proceedings pending against him with the department or before any competent Court of law, which would have entitled the respondents to withhold his pensionary benefits.

Learned counsel for the petitioner argues that leave encashment and gratuity was paid to the petitioner on 16.05.2017, whereas, GPF was paid to the petitioner on 13.12.2017. Learned counsel for the petitioner restricts his prayer for the grant of interest on the delayed release of GPF amounting to Rs.10,09,100/-, which was released to the petitioner on 13.12.2017.

Upon notice of motion, respondents have filed reply, in which respondents have stated that after the retirement of the petitioner, the sanction to release the GPF was issued on the same date but the said sanction lapsed on 31.03.2017 as no payment was released by the Treasury. It has been further stated in the reply that revised sanction was sent on 08.06.2017 and payment has been made to the petitioner on 13.12.2017, Therefore, there is no delay in release of GPF amount by the Administrative department and the delay is attributable to the Treasury. Relevant paragraph of the reply is as under:-

> "That the petitioner has filed the present writ petition before this Hon'ble Court for directing the respondents to release the retiral benefits to the petitioner along with interest on GPF delayed payment. The petitioner has retired from Govt. service on attaining the age of superannuation and availing two years extension on 31.01.2017 from the department. As such sanction for final payment of GPF was issued vide letter No.713/9-GPF dated 30.01.2017 for Rs.10,09,100/- this sanction lapsed on 31.03.2017. Again revalidation applied to the competent authority. This office received sanction of GPF from Chief Engineer vide letter No.5120-23/9GPF, dated 08.06.2017 after that this office prepared the bill 14 dated 22.06.2017 and submitted to the Distt Treasury office, Gurdaspur. The payment had been made to the petitioner vide

> Sr. No.306 dated 13.12.2017. From the above mentioned facts it is clear that delay in making payment is on the part of Treasury office, Gurdaspur.
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> That the present writ petition is not maintainable and as such is liable to be dismissed.

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

A Full Bench of this Court in ***A.S. Randhawa vs. State of Punjab 1997(3) S.C.T. 468*** has held that an employee will be entitled for release of his pensionary benefits within a reasonable time after his retirement and the reasonable time as per the Full Bench is two months. In the present writ petition, nothing has been stated as to what prevented the respondents to release the benefits within a reasonable time. It is an admitted fact that the petitioner retired from service on 31.1.2017 and the payment of GPF was released to him on 13.12.2017. In the absence of any cogent reason for withholding the amount for almost eleven months, the delay is only attributable to the respondents and the said delay which is attributable to respondents, cannot cause prejudice to the petitioner and petitioner becomes entitled to be compensated for the delay by the grant of interest on the delayed payments. Relevant paragraph of the 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."

Further a Co-ordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana 2014 (13) RCR (Civil) 355*** held that where an amount is retained and used by the respondents/employer, an employee will be entitled for interest on the same. Relevant paragraph of the 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."

Learned counsel for the respondents has tried to shift the burden on Treasury office for the delay in releasing the amount. The said argument is not available with the respondents as Treasury is only an agent of the Administrative Department. The petitioner was entitled for the release of the pensionary benefits and it is the Administrative Department, which is to release the same. In case the Treasury delays the payments, the Administrative Department cannot escape the liability being employer as the Treasury is only an agent of the Administration Department and in case any delay is caused by the agent, the principal employer will also be liable for the same, therefore the respondent department cannot escape the liability to pay the interest on the delayed release of payment of GPF.

Keeping in view the above, the present writ petition is allowed. The petitioner will be entitled for interest on the delayed release of GPF amount @ 9% per annum from the date it became due till the same was released to the petitioner.

Let computation of the interest, for which the petitioner is entitled as per this order be carried out within a period of two months from the date of receipt of copy of this order and the payment so calculated be released to the petitioner within a period of one month thereafter.

(HARSIMRAN SINGH SETHI)
29.10.2019 **JUDGE**
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1. Whether speaking/non-speaking? Yes/No
2. Whether reportable? Yes/No