IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-15912-2016
Date of decision: - 09.01.2019

Harjeet Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Ram Kumar Chauhan, Advocate, for the petitioner.

Ms. Deepali Puri Sandhu, Additional Advocate General, Pb.

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HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the claim which is being made is for the grant of interest on the delayed release of the retiral benefits for which the petitioner was entitled for on her retirement on 31.08.2013.

It has been contended by the petitioner in the present writ petition that though she retired on 31.08.2013, her retiral benefits were not released by the respondents for a period of approximately two years, hence, she approached this Court by filing CWP No.20546 of 2015, which was disposed of by this Court on 28.09.2015 by giving direction to the respondents to decide the legal notice, which the petitioner had served upon the respondents claiming the said benefits.

It has been further averred that after the direction was given by this Court, the respondents processed the case of the petitioner and granted the benefits.

The said benefits were granted only in the year 2016 and Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468** has already held that the employees will be entitled for the interest on the delayed payments. The said judgment of Full Bench has been followed by this Court in **J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355,** wherein it has been held that if the respondents have retained the amount with themselves for which the petitioner was entitled, the petitioner is entitled for the interest as well. 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."

Notice of motion was issued on 08.08.2016.

In paragraph 3 of the short reply filed on behalf of respondents No.1, 3 to 5, the respondents have admitted that the payments were made to the petitioner only in the year 2016. The relevant averments made in reply of para No.3 is as under: -

> "That in compliance with the above directions dated 28.09.2015, it is most respectfully submitted that by considering the legal notice of the petitioner, a Bill No.154 dated 31.3.2015 for an amount of Rs. 439800/- of leave encashment was sent to the Treasury

> Officer, Bholath but the same was returned and thereafter a Bill No.43 dated 27.7.2015 was again sent and the same was passed by the Treasury Officer, Bholath on 16.3.2016. It is also pertinent to mention here that the bill regarding Dearness Allowance arrears from 1.6.2013 to 31.8.2013 amounting to Rs.17390/- was also sent to District Treasury Officer twice time vide bill No.89 on 9.12.2014 and thereafter vide Bill No.143 dated 30.3.2016, but the same was returned with the objection that "Bill not passed as per govt. instructions," by the Treasury Officer, Bholath."

A bare perusal of the above-said reply would show that not only the factum of delayed payments had been admitted by the respondents but there is no justification, which has been given for the said delayed payments. Once, there is no justification with the respondents to withhold the retiral benefits of the petitioner especially in view of the fact that the petitioner was forced to approach this Court seeking the same, she is held entitled for the interest on the delayed payments.

In view of the above, the present writ petition is allowed and the petitioner is awarded interest @ 6% per annum on the delayed payments from the date the same became due till the actual amount was released in her favour.

Let the amount of interest be calculated by the respondents within a period of two months from the date of receipt of a certified copy of this order and the amount so calculated, shall be disbursed to the petitioner within a period of one month thereafter.

(HARSIMRAN SINGH SETHI)
JUDGE

January 09, 2019
naresh.k

Whether reasoned/speaking? Yes
Whether reportable? No