IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.16374 of 2016
DATE OF DECISION:08.04.2019

Sant Lal and others

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Anupam Singla, Advocate for the petitioners.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

Mr. Vishal Bali, Advocate for
Mr. Sameer Sachdeva, Advocate for respondent No.2.

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HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the grievance which is being raised by the petitioners is that though they had retired from service starting from the year 2011, release of their retiral amount was delayed by the respondents without any valid justification and, therefore, as per the settled principles of law settled by a Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab 1997(3) SCT 468,** the petitioners are entitled for interest on such delayed payment.

Facts as mentioned in the writ petition are that the petitioners were working in the cadre(s) of Assistant Engineer, Circle Head Draftsman and Senior Scale Stenographer respectively and retired from service on 31.07.2012, 31.05.2011 and 31.01.2013 respectively.

Counsel for the petitioners states that though the petitioners had retired starting from the year 2011, their pensionary benefits were delayed and the payments were made to petitioner No.1 Sant Lal amounting to ₹1,38,914/- on 30.11.2015, to petitioner No.2 Harjeet Singh amounting to Rs.4,98,300/- on 28.02.2013 and to petitioner No.3 Harchand Singh amounting to Rs.4,95,880/- on 31.12.2014. Counsel for the petitioner states that as there was no impediment in the release of the petitioners' benefits at the time when they retired hence withholding of the same is contrary to the law and, therefore, the petitioners are entitled for interest on the said delayed payments.

The respondents have filed reply to the writ petition. As far as the claim of petitioner No.1 is concerned, the respondents have stated that he had filed the writ petition being CWP No.21208 of 2014 challenging the deduction amounting to ₹1,38,914/- and the said writ petition was allowed on 19.05.2015 and direction was issued to release the said amount. No direction was given by this Court to grant interest on the said payment. Therefore, the present writ petition for claiming interest on the same amount is not at all permissible. In respect of petitioners No.2 and 3, nothing has been mentioned by the respondents as to why the payments, which were released to them in February, 2013 and December, 2014, were not released within a reasonable time. No justification has been given in respect of the delayed release of the said payments in the reply.

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

It is a matter of fact that the present writ petition has been filed by petitioner No.1 seeking interest on an amount of ₹1,38,914/-, which was released to him on 30.11.2015. For the release of this very amount, which was recovered by the respondents, the petitioner had filed CWP No.21208 of 2014. This Court allowed the said writ petition. The relevant para of the said order is as under:

> "7. Therefore, keeping in view the above, the instant petition is allowed. The impugned order dated 17.10.2012 (Annexure P-2) to the extent that "in case any excess payment has been made, the same be recovered from the arreras of salary etc," order dated 20.03.2013 (Annexure P-3) to the extent of "recovery of excess payment of Rs.1,38,914/-" and letter dated 24.07.2013 (Annexure P-5), are set aside/quashed. The respondents are directed to refund the recovered amount Rs.1,38,914/-, within a period of three months from the date of receipt of a certified copy of this order."

A bare perusal of the order shows that the petitioner No.1 was not granted interest on the said amount. Once the interest was not granted by this Court while deciding CWP No.21208 of 2014, no second petition could have been filed by the petitioner in this regard and, therefore, the claim of petitioner No.1 is not at all justifiable for the grant of interest.

As far as petitioners No.2 and 3 are concerned, no justification has been given as to why the amount of ₹4,98,300/- in respect of petitioner No.2 was released on 28.02.2013 though he retired on 31.05.2011. Similarly, nothing has been mentioned as to why the amount of ₹4,95,880/- was withheld in respect of petitioner No.3 and the same was paid only on 31.12.2014 though he retired on

31.01.2013. In the absence of any justification, it can be safely presumed that the respondents wrongly withheld the amount for which petitioners No.2 and 3 were entitled for immediately at the time of their retirement.

As per the decision rendered by the Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab 1997(3) SCT 468,** the employee is entitled for interest if there is no valid justification for the delayed release of the retiral benefits. In the absence of any justifiction, the employee is entitled for interest on the delayed payments. The relevant para 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. 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."

Not only this, a co-ordinate Bench while deciding **J S Cheema Vs. State of Haryana and others, 2014(13) RCR (Civil) 355** also held that once the amount has been retained, the employee will become entitled for the grant of interest. The relevant para of the said order 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 laying 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."

The case of petitioners No.2 and 3 are squarely covered by the abovesaid decision for the grant of interest. In view of the above, the petitioners No.2 and 3 are found entitled for interest @ 9% per annum from the date the amount of ₹4,98,300/- became due in respect of petitioner No.2 and ₹4,95,880/- became due to petitioner No.3 till the actual date of payment. As petitioner No.2 unfortunately died during the pendency of writ petition, his legal heirs have been impleaded. The amount of interest in respect of petitioner No.2 be released to his legal heirs. Let the interest payable to petitioners No.2 and 3 be calculated within a period of two months from the date of receipt of a certified copy of this order and the actual payment of the calculated amount be released to him within a period of one month thereafter.

The present writ petiton is disposed of in the above terms.

April 08, 2019
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(HARSIMRAN SINGH SETHI)
JUDGE

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