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

(239) **CWP-16452-2016**
Date of Decision: October 15, 2019

Pritam 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.

Mr. Navdeep Chhabra, DAG, Punjab.

Mr. Arvind Rajotia, Advocate, for respondent No.4.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the grievance which is being raised by the petitioner is that though the pension of the petitioner had already been revised by the respondents vide order dated 11.10.2011 (Annexure P-1) from Rs.5669/- to Rs.8502/- w.e.f. 01.03.2007 but the actual benefits have not been released to the petitioner and the prayer of the petitioner is for directing the respondents to release the said arrears alongwith interest.

The petitioner retired from service on 28.02.2007 and was granted the pensionary benefits on the pay scale which was pre-revised on the date of his retirement. The Government of Punjab had revised the pay scale of the employees in the year 2009 w.e.f. 01.01.2006 due to which, petitioner became entitled for revised pay w.e.f. 01.01.2006 and consequent revised pension w.e.f. 01.03.2007 onwards. The benefit of revised pension was allowed in favour of the petitioner vide order dated 11.10.2011 and pension of the petitioner was revised from Rs.5669/- to Rs.8502/- but despite the fact that the order was passed, actual benefits were not released

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to the petitioner without any valid justification. After waiting for about five years, petitioner approached this Court seeking a directions to the respondents to implement the order dated 11.10.2011 so as to revise his pension from Rs.5669/- to Rs.8502/- w.e.f. 01.03.2007 onwards and release the arrears alongwith interest.

Upon notice of motion, respondents have filed reply and in the reply, it has been admitted by the respondents that an order was passed on 11.10.2011 by the Accountant General, Punjab granting the petitioner the revised pension of Rs.8502/- instead of Rs.5669/- w.e.f. 01.03.2007 but there was no mention as to whether, the arrears for which the petitioner became entitled for on account of the said revised pension, have been paid or not.

On the last date of hearing i.e. 21.08.2019, following order was passed:-

> *"Cost of Rs.5000/- as imposed, vide order dated 27.03.2019, has already been deposited.*
>
> *Reply on behalf of respondent No.4 filed in the Court today is taken on record. Copy thereof has been supplied to counsel for the petitioner.*
>
> *Learned counsel for respondent No.4 states that the pension of the petitioner has already been revised w.e.f. March, 2016 and the arrears from the said date have already been released to the petitioner.*
>
> *In respect of the revision of the pension from Rs.5,669/- to Rs.8,502/- w.e.f. 01.03.2007, counsel for respondent No.4 states that no PPO has been issued by the competent authority i.e. Accountant General, Punjab and in the absence of the same, the arrears canot be released.*
>
> *Learned counsel for the respondents-State prays for time to seek instructions in this regard.*

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Adjourned to 15.10.2019.

Let an affidavit in this regard be filed by the next date of hearing by the respondents as to whether the revised PPO has been issued so that the arrears could be released to the petitioner or not."

Today, an additional affidavit has been filed on behalf of respondents No. 1 to 3 wherein, it has been stated that the arrears of revised pension have already been released to the petitioner in pursuance to the order dated 11.10.2011 and the same have been deposited in the account of the petitioner on 01.10.2019 amounting to Rs.3,74,925/- after deducting tax of Rs.37,817/-.

This fact is not disputed by learned counsel for the petitioner.

Learned counsel for the petitioner argues that the benefit was extended to the petitioner in the year 2011 but actual payment is being made now in the year 2019. He further submits that the delay is attributable to the respondents as no valid justification has been given as to why despite passing of an order in favour of the petitioner on 11.10.2011 revising his pension from Rs.5669/- to Rs.8502/- w.e.f 01.03.2007, the arrears were not released and petitioner was forced to approach this Court seeking the implementation of the said order.

Learned counsel for respondents No. 1 to 3 put the burden of non-release of the actual benefits to the petitioner in pursuance of the order dated 11.10.2011 upon the bank and states that in case there is any delay, the same is attributable to the bank and not to the Government and therefore, the bank be held liable to pay interest on the delayed release of the arrears of revised pension.

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

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Learned counsel for the bank argues that without a revised pension payment order, bank on its own cannot release the pension and in this case, no revised pension payment order was issued by the State or office of Accountant General, Punjab in pursuance to the order dated 11.10.2011, hence no blame of delayed payment can be put on bank.

Once it is admitted that an order was passed as far as back 11.10.2011, there is no valid justification which has come forward as to why the actual payment in pursuance to the said order has been delayed for a period of more than 8 years. The claim of the petitioner for the payment of revised pension is not disputed and the issuance of an order revising pension from Rs.5669/- to Rs.8502/- in favour of the petitioner is also accepted by the respondents.

Once, the consequential benefits of the order dated 11.10.2011 granting the petitioner the revised pension of Rs.8502/- has only been implemented now in the year 2019 and arrears of the pension have been paid only in the year 2019, petitioner is well justified to claim the interest on the same amount.

A Coordinate Bench of this Court in ***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, has been retained and used by the department, the employee will be entitled for the 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*

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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 the facts and circumstances of this case, the amount which has been credited in the account of the petitioner on 01.10.2019, was the amount for which the petitioner was entitled in October, 2011 when the said benefit was extended to him. Therefore, the respondents have not only kept the amount but used to their benefits and the petitioner was deprived of the said amount for a period of 8 years despite his entitlement.

Learned counsel for the respondents-State argues that the delay is on the part of the bank in releasing and therefore, the bank should be burdened with the interest and not the State. The payment of pension is the duty of the Administrative Department and not of the bank. The bank is only acting as an agent of the Government in releasing the pensionary benefits. Therefore, the primary duty to release the pensionary benefits is of the Administrative Department and the bank is only an agent for discharging the said duty.

Even if it is presumed for the sake of arguments that an agent i.e. the bank was at fault though the same is being disputed by the bank, the State cannot escape its liability being employer of the petitioner. Therefore, respondents No. 1 to 3 are held liable for the payment of interest to the petitioner @ 9% per annum from the date of the passing of the order i.e. 11.10.2011 till it was actually deposited in the account of the petitioner. Let the calculation of the interest be done by the respondents within a period of two months from the date of receipt of certified copy of this order and the

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amount so calculated shall be released to the petitioner within one month thereafter.

As there is a dispute between the State and the bank as to who is responsible for the delay, this Court is not passing any order to the said effect. It will be open to respondents No. 1 to 3 to claim the interest from the bank in accordance with law, if permissible under law after following due procedure.

(HARSIMRAN SINGH SETHI)
JUDGE

October 15, 2019
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No

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