IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

(230) **CWP-19220-2016**
Date of Decision: July 03, 2019

Bakhtwar Singh .. Petitioner

Versus

State of Punjab and others .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amit Arora, Advocate, for the petitioner.

Mr. Vikas Mohan Gupta, Addl. A.G., Punjab.

Mr. Aman Sharma, Advocate, for respondents No. 2 and 3.

HARSIMRAN SINGH SETHI, J.(ORAL)

Learned counsel for the petitioner argues that after the retirement of the petitioner on 31.08.2013, the pensionary benefits for which, he was entitled for, were not paid immediately upon his retirement.

Learned counsel for the petitioner argues that even as of now, certain benefits, for which the petitioner had become entitled for after his retirement, are still to be paid which is clear from the admission, which the respondents have made in the written statement, filed in this petition.

In the short reply, which has been filed by the respondents, following averments have been made in paragraph 4 & 5:-

"*4. That it is respectfully submitted before this Hon'ble Court that the due retiral benefits of the petitioner has been already paid to petitioner by the office of the deponent as under:-*

Sr. No.	***Head of Payment***	***Amount Date***	***Remarks***
1	Gratuity	Rs.4,89,600/-	Amount of Rs.4,89,600/- paid vide Cheque No. 410801 dated 12.04.2016

Sr. No.	*Head of Payment*	*Amount Date*	*Remarks*
2	Leave Encashment	Rs.2,92,400/-	Amount of Rs.2,92,400/- and
3	Revised Leave Encashment	13,600/-	Rs.13,600/- paid vide Bill No.301 dated 07.06.2016
4	2nd installment of Arrears of Pay	Rs.23,145/-	Paid
5	3rd installment of Arrears of Pay	Rs.23,146/-	Paid
	TOTAL	**Rs.8,41,891/-**	**Rs.8,41,891/-**

5. That it is pertinent to mention here that some of the due amount of retiral benefits, as mentioned under, has not been paid to the petitioner.

Sr. No.	*Head of Payment*	*Amount Due*	*Remarks*
1	Revised Leave Encashment	Rs.17,000/-	Not Paid
2	Revised Gratuity	Rs.27,200/-	Not Paid
3	DA(Dearness Allowance) from dt. 01/01/1999 to 2003	Rs.11,545/-	Not Paid
4	**Total**	**Rs.55,745/-**	**Rs.55,745/-**

Learned counsel for the respondents states that after filing of the short written statement, even the revised leave encashment and revised gratuity has also been released and only dearness allowance amounting to Rs.11,545/- is yet to be paid to the petitioner, which will be paid within a period of one month from the receipt of copy of this order.

Learned counsel for the petitioner argues that not only the pensionary benefits of the petitioner but the pensionary benefits of large number of employees of PRTC were withheld by the respondents on account of financial difficulty. Counsel argues that this Court had an occasion to decide the said controversy in CWP No.15306 of 2016 titled as Hari Ram and others Vs. PRTC decided on 04.09.2017, wherein a direction was given to the respondent-Corporation to release the amount for which the employees were entitled for after their retirement along with 9% interest.

Learned counsel for the respondents is not able to dispute the same and rather informs the Court that the respondent-Corporation has already decided to implement the judgment and grant the interest to the employees on their delayed release of the retiral benefits.

Keeping in view the above, it is admitted by the respondents themselves that there is a delay in the release of the pensionary benefits and the petitioner will be entitled for interest keeping in view the law laid down by this Court in CWP No.15306 of 2016 titled as Hari Ram and others Vs. PRTC decided on 04.09.2017. Relevant para of the aforesaid judgment is as under:-

> *"17. In case, **Bhagwant Singh (supra)**, this Court, keeping in view the various judgments rendered by the Hon'ble apex Court, directed the respondents to release all the retiral benefits to the petitioner alongwith interest @ 9% per annum till the payment is released within a period of three*
> *months from the date of receipt of certified copy of the order. Similarly, in case **Satpal Singh (supra)**, PRTC was directed to make payment of interest @ 9% per annum on the delayed payment as early as possible but not later than six months.*
>
> *18. A period of more than one year has elapsed from passing of judgment dated July 23, 2016 in CWP No.26520 of 2014 and respondent – PRTC must have earned the amount. No straight jacket formula can be formulated or projected for providing a specific time to disburse the various retiral benefits, however, considering the various judgments as well as financial constraints, PRTC is directed to evolve some source(s) to arrange the money to be paid to the petitioners who owe large responsibilities/liabilities of their families to discharge after retirement. Thus, this Court is of the considered view that it would be apt, proper and justifiable to direct the respondent – PRTC to make the*

payment(s) within a period of six months from the date of receipt of certified copy of this judgment. The respondent – PRTC is further directed to release the benefit(s), if any, still remains to be paid to any of the petitioner(s) within the aforestated stipulated period alongwith interest as observed above.

19. As an offshoot of the aforesaid discussion, petitioners shall be entitled to interest @ 9% per annum on the delayed payment after expiry of three months period from the date of their retirement till its actual payment which shall be paid by the PRTC within a period of six months.

20. Petitions stand disposed of accordingly.

Not only this, from the facts mentioned in the writ petition as well as in the reply, it is clear that though the petitioner retired from service on 31.08.2013, the payments were made only from April, 2016 onwards. Even some of the payments are yet to be made to the petitioners. A Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab, 1997(3) S.C.T. 468,*** 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 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 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."*

Keeping in view the above law, especially in the case relating to the respondents-Corporation itself, i.e. ***Hari Ram's case (supra),*** petitioner's claim for interest is justified as per the settled principle of law.

Hence, a direction is issued to the respondent to grant interest @ 9% per annum to the petitioner from three months after the date of retirement till the said amount was actually released to the petitioner. 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 the amount so calculated shall be released to the petitioner, within a period of one month thereafter.

The writ petition is allowed in above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

July 03, 2019
harsha

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