IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-193-2016
Date of decision: - 03.05.2019

Singh Ram
....Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Limited and others
.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Pankaj Dhingra, Advocate
and Mr. Rakesh Chaudhary, Advocate,
for the petitioner.

Mr. Suvir Sehgal, Advocate
for the respondents.

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HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the grievance of the petitioner is that an amount of ₹2,24,533/- has been withheld by the respondents while paying the retiral benefits of the petitioner and further though the petitioner the retired on 31.03.2015, retiral benefits were released staring from August, 2015 onwards and therefore, he is entitled for interest on the said delayed payments.

The facts as mentioned in the writ petition are that the petitioner, who was working as an Assistant Foreman with the respondents, retired on 31.03.2015. After the retirement of the petitioner, the benefits for which he was entitled for were not released immediately.

The pension of the petitioner was released after PPO was issued on 02.09.2015 (Annexure P-1) and similarly the gratuity of the petitioner was released on 31.08.2015 and out of the total amount of ₹7,67,217/-, a sum of ₹2,24,533/- was withheld by the respondents. A sum of ₹4,38,573/- was released on 31.08.2015 on account of the commutation of pension.

Counsel for the petitioner states that though there was no charge-sheet, which was pending against the petitioner and there was no impediment in the release of the pensionary benefits, still, not only a sum of ₹2,24,533/- was retained without any valid justification, but even the release of the pensionary benefits was delayed, which caused great prejudice to the petitioner.

Counsel for the petitioner further argues that petitioner is not only entitled for the release of the withheld amount alongwith interest, but interest on the delayed released payments of pension, gratuity, commutation of pension keeping in view the law laid down by this Court in **A.S. Randhawa** **Vs.** **State of Punjab and others**, **1997(3) SCT 468.**

Upon notice of motion, the respondents have filed the reply.

In the reply, the respondents have not disputed that there were no proceedings pending against the petitioner as no charge-sheet was ever served upon the petitioner in respect of any allegation, though, certain allegations were attributed to the petitioner in the written statement with regard to the shortages. It is an admitted fact that no charge-sheet, alleging those allegations, was served on the petitioner. Further, with regard to withholding of an amount of ₹2,24,533/-, it has been mentioned by the respondents that a sum of ₹74,500/- was released to the petitioner on 03.11.2015 and thereafter, another amount of ₹95,357/- was released on 01.09.2016, but still, an amount of ₹54,676/- is yet to be released to the petitioner though it is already four years since petitioner retired from service.

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

In the present writ petition, it is an admitted fact that there were no proceeding pending against the petitioner when he retired on 31.03.2015. Even after retirement, no proceeding is ever initiated, but still not only the pensionary benefits of the petitioner were released after a considerable time, but the same have not been released in toto even as on today. The pension of the petitioner was released on 02.09.2015 and the gratuity, leave encashment was released to the petitioner on 31.08.2015 though petitioner retired on 31.03.2015. From the gratuity, a sum of ₹2,24,533/- was withheld by the respondents though there was no valid justification for the same. In the absence of any proceeding against the petitioner, the respondents were not entitled to withhold any amount. It has been admitted by the respondents in their reply that out of the withheld amount of ₹2,24,533/-, a sum of ₹74,500/- was paid to the petitioner on 03.11.2015 and thereafter, another an amount of ₹95,357/- on 01.09.2016. There is no mention as to why the remaining amount of ₹54,676/- has not been released to the petitioner so far.

As per the settled principle of law settled by a Full Bench of this Court in **A.S. Randhawa's case (supra),** the amount which has been retained by the respondents and that too without any justifiable reason, the employee will be entitled to interest. The relevant paragraph 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 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."

Not only this, a Co-ordinate Bench of this Court in the case of **J.S. Cheema** **Vs.** **State of Haryana, 2014(13) RCR (Civil) 355** had held that an employee will be entitled for the interest on an amount which has been retained by the respondents without any valid justification. 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."

The case of the petitioner is squarely covered by the above-said judgments and therefore, a direction is issued to the respondents to pay the interest @ 9% per annum from the date the amount released for which the petitioner became entitled after his retirement on 01.04.2015. The interest shall be paid till the amount was released by the respondents. Further, a direction is issued to release the amount of ₹54,766/-, which is yet to be released to the petitioner out of the withheld amount, within a period of two months and even this amount shall carry interest @ 9% from the date the same became due till the same is paid.

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

Present writ petition stands disposed of in the above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

May 03, 2019
naresh.k

Whether reasoned/speaking? Yes
Whether reportable? Yes