IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-16325-2017
Date of decision: - 03.04.2019

Kamaldev Sharma

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. R.K. Arora, Advocate, for the petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

***

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the grievance which is being raised by the petitioner is that though he retired on 31.10.2009, but the gratuity has only been released to him in March, 2018 i.e. after a period of approximately 8½ years, hence, he is entitled for the interest on the said delayed payment keeping in view of the settled principle of law settled by the Full Bench of this Court in **A.S. Randhawa** **Vs**. **State of Punjab and others**, **1997(3) SCT 468.**

The facts as mentioned in the writ petition are that initially the petitioner joined as Science Master at Government Middle School, Balewal, District Ropar under the Department of Education on 13.12.1977 on adhoc basis and his services were regularized on 01.10.1980. He continued working as such when he was selected on the post of Headmaster in a Government Aided Private School i.e. DAV High School, Takhatgarh, Ropar in May, 2000. Petitioner continued working on the said post till he submitted a request seeking voluntary retirement after which he was relieved from service on 03.10.2000. Petitioner prays that his service, which he rendered with the Department of Education, should be treated as a qualifying service for computing the pensionary benefits. Though a prayer has been made in the present writ petition for the grant of this benefit, but at the time of argument learned counsel for the petitioner stated that he is not pressing the same.

Counsel for the petitioner states that though the petitioner retired in the year 2009, but the gratuity for which he was entitled for the service, which he had rendered from 05.10.2000 till 31.10.2009 was not paid to him till the year 2018 without any valid justification.

Counsel for the petitioner further states that the gratuity was not released till the filing the present writ petition, but during the pendency of writ petition, keeping in view the approval granted by the competent authority on 23.10.2017 for the release of the gratuity, the actual amount of gratuity was released to the petitioner on 26.03.2018 and therefore, he is entitled for interest on the said delayed payment of ₹1,25,388/-.

Upon notice of motion, a reply has been filed on behalf of respondents No.1 and 2.

In the reply, it has been admitted by the respondents that though the petitioner retired on 31.10.2009, but the gratuity has only been released by the competent authority vide letter dated 23.10.2017 and the bill was sent to the Treasury for onward payment to the petitioner and the said amount will be released to the petitioner shortly. No justification has been given by the respondents in the reply as to why there was a delay of approximately 8½ years for the release of the gratuity.

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

Once, the respondents have admitted that petitioner retired from service on 31.10.2009 and upon the retirement, he was entitled for the release of the gratuity, the question which arises is, why the same was not released within a reasonable time. The respondents in their reply have not given any valid justification for withholding the said benefit. In the absence of any valid justification for withholding, the conclusion will be that the petitioner was entitled for the release of the gratuity at the time of his retirement itself, which was denied to him. .

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."

In the present case, no justification has been provided by the respondents, much less the valid justification. In the absence of any valid justification, the petitioner is entitled for the interest on the delayed release of the DCRG, which was actually released to him on 26.03.2018.

In the case of **J.S. Cheema** **Vs**. **State of Haryana, 2014(13) RCR (Civil) 355,** this Court 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."

In view of the above, the present writ petition is allowed to the extent that on the delayed payment of gratuity, the petitioner shall be entitled for interest @ 9% per annum from the date he retired till the same was released to him i.e. 26.03.2018.

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

April 03, 2019
naresh.k

Whether reasoned/speaking?	Yes
Whether reportable?	No