IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **CWP-20803-2016 (O&M)**

Jagdish Rai Arora **....Petitioner**

Versus

State of Punjab and another **.....Respondents**

2. **CWP-20804-2016 (O&M)**

Ashok Kumar Gupta **....Petitioner**

Versus

State of Punjab and another **.....Respondents**

Date of decision: - 28.02.2019

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. V.K. Shukla, Advocate,
for the petitioner.

Ms. Deepali Puri Sandhu, Additional Advocate General, Pb.

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HARSIMRAN SINGH SETHI, J. (ORAL)

CM-3247-CWP-2019 in CWP-20803-2016

Present application has been filed on behalf of applicant-petitioner to place on record replication to the written statement filed on behalf of the respondents.

In view of the averments made in the application, the same is allowed. Replication is taken on record, subject to all just exceptions.

CM stands allowed.

Main Cases

By this common order, above-mentioned two Civil Writ Petitions are being disposed of. For the sake of convenience, the facts are being extracted from CWP No.20803 of 2016 titled 'Jagdish Rai Arora Vs. State of Punjab and another.'

The grievance of the petitioner is that though he retried on 31.08.2008, but his pensionary benefits for which he was entitled for, were wrongly withheld and were only released by the respondents in the year 2014-2015 and as there is no valid justification for the same, therefore, the petitioner is entitled for interest on the payments which were released in the year 2014-2015 keeping in view the law laid down by a Full Bench of this Court **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468.**

In the writ petition, the petitioner has mentioned that he joined as a Clerk on 19.10.1974 with the respondent department and thereafter, he was promoted as Assistant on 22.01.1982 and further he was promoted as a Treasury Officer on 08.07.1986. Petitioner was further promoted as District Treasury Officer on 05.10.2004 and while working as such, he retired from service on 31.08.2018.

The State of Punjab revised the pay-scales of its employees, vide notification dated 27.05.2009. Though by the said date, petitioner already stood retired, but as the notification came into effect w.e.f. 01.01.2006, the petitioner became entitled for the revision of his pay-scales for the period starting from 01.01.2006 till 31.08.2008 i.e. date of his retirement.

It is an assertion of the petitioner that after the retirement of the petitioner on 31.08.2008, the pensionary benefits for which he was entitled for were released within a reasonable time. The details of the payments released are as under: -

Sr. No.	Pensionary benefits released	TV No. and dated	Amount
1	DCRG	163/22.11.2008	₹3,50,000/-
2	Leave Encashment	62/11.09.2008	₹2,77,830/-
3	Difference of increase in DA	221/31.03.2009	₹22,330/-
4	GPF Final Payment	318/26.09.2008	₹9,46,006/-
5	GIS Final Payment	15/26.09.2008	₹31,162/-

Counsel for the petitioner states that the retiral benefits which were released to the petitioner in the year 2008-2009 were on the basis of the unrevised pay-scales and therefore, keeping in view the revision of the pay-scales, not only the pay of the petitioner was required to be refixed, but also the pensionary benefits and the petitioner was entitled for arrears on account of the said revision of the pay-scales which came into effect w.e.f. 01.01.2006.

Counsel for the petitioner further states the said revision was given effect by the respondents, vide order dated 11.06.2014 and thereafter, the pensionary benefits of the petitioner were released by the respondent on revised pay-scales.

Counsel for the petitioner argues that once the revision had taken place in the year 2009 w.e.f. 01.01.2006, petitioner was entitled for the revision of his pay immediately and was required to be paid the difference in the pensionary benefits immediately, but as the same were paid after more than six years, the petitioner is entitled for interest on the said benefits.

The claim of the petitioner for the grant of interest was declined by the respondents vide order dated 19.11.2015 wherein it was mentioned that there is no intentional or willful delay in releasing the benefits to the petitioner and therefore, no interest is payable. It was further mentioned that after the retirement of the petitioner, there was a charge-sheet, which was served upon the petitioner on 19.10.2010, which remained pending till it was dropped on 29.01.2014, and therefore, keeping in view the fact that the charge-sheet was pending against the petitioner, there is a valid justification with the respondents to withhold the benefits and therefore, the petitioner is not entitled for interest. This order dated 19.11.2015 is under challenge in the present writ petition.

Upon notice of motion, the respondents filed the reply.

In the reply also, the same stand has been taken by the respondents that there was a charge-sheet, which was served upon the petitioner and the same remained pending till January, 2014 and upon dropping the said charge-sheet on 29.01.2014, the benefits, for which the petitioner became entitled for on revision of his pay-scales and consequent revision of his pension, were released.

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

It is a matter of fact that when the petitioner retired on 31.08.2008, there was no charge-sheet pending and within a period of six months, all the pensionary benefits for which the petitioner was entitled for were released. These benefits were released on an unrevised pay and the petitioner became entitled for revision of his pay-scale in view of the notification issued by the Government of Punjab dated 27.05.2009 by which the pay-scale of the government employees were revised w.e.f. 01.01.2006. In view of the revision, which came w.e.f. 01.01.2006, petitioner became entitled for the revision of his pay and consequently the revision of his pensionary benefits. These benefits were withheld by the respondents on the ground of pendency of a charge-sheet which was served upon the petitioner on 19.10.2010. It has been admitted by the respondents that the said charge-sheet was dropped on 29.01.2014. Once, the said charge-sheet was dropped and no order holding the petitioner responsible for the allegations alleged in the charge-sheet was passed, the pendency of a charge-sheet cannot cause prejudice to the petitioner. Further, once the allegations were dropped, it can be safely presumed that there was no substance in the allegations which were alleged against the petitioner. Though in the reply, it has been mentioned that the charges were proved, but still the competent authority by taking a lenient view dropped the charge-sheet.

Be that as it may, if the charge-sheet has been dropped, the petitioner becomes entitled for the interest as the respondents have no valid justification for withholding the benefits. The ground taken to deny the interest to the petitioner is not a valid ground.

A Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468** while deciding the question of grant of interest to the retired employee has held that the amount which has been retained by the respondents and there is a delay in releasing the same, the employee will be entitled for 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."

Furthermore, 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 **<u>J.S. Cheema's</u> 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."

A bare perusal of the above reproduced judgments would show that where the amount has been retained by the department, the employee has been held entitled to the interest.

I am of the view that the case of the petitioner is squarely covered by the above-said judgments. Hence, the petitioner is held entitled for interest @ 8% per annum on the delayed payments mentioned hereinafter:-

Sr. No.	**Pensionary benefits released**	**TV No. and dated**	**Amount**
1	Difference of DCRG	510/30.03.2015	₹1,95,292/-
2	Difference of Leave Encashment	469/30.03.2015	₹30,320/-
3	Arrears of revision of pay scale/ salary etc.	39/31.12.2014	₹1,24,970/-
4	Arrears of pension of pension paid by bank and credit of his account	31.01.2015	₹86,864/-

Respondents are directed to calculate the interest from the date the pay-scales were revised i.e. May, 2009 onwards till the payment of actual benefits as mentioned hereinabove.

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

Present writ petitions stand allowed in the above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

February 28, 2019
naresh.k

Whether reasoned/speaking? Yes
Whether reportable? Yes