IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 21490 of 2016 (O&M)
Date of Decision : 22.04.2019

Jit Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. D.S. Kahlon, Advocate for the petitioner.

Ms. Deepali Puri Sandhu, Addl. A.G., Punjab.

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Harsimran Singh Sethi, J.(Oral)

CM-780-CWP-2019

The present application has been filed to place on record replication to the written statement filed on behalf of respondents No. 1 to 4.

Copy of the replication has already been supplied to the opposite side.

The application is allowed and replication is taken on record, subject to all just exceptions.

Main Case

In the present writ petition, the grievance which is being raised by the petitioner is that though the petitioner retired on 30.04.2013, but his retiral benefits were not released immediately without there being any valid justification. Further, claim is for release all retiral benefit including the arrears of ACP which the petitioner was granted after rendering 4,9,14 years of service alongwith interest.

As per the facts mentioned in the writ petition, petitioner was appointed as a Supervisor with the Irrigation Department in the year 1987 and he continued working as such till he attained the age of superannuation on 30.04.2013. Grievance of the petitioner is that the benefits for which he was entitled for on retirement, were not released and the same were withheld without any valid justification. Further, an averment has been made that even the arrears of the grant of ACP after 4, 9, 14 years of service, which the petitioner rendered as a Supervisor with the respondents, were not released to him amounting to approximately ₹3-4 lacs.

Upon notice of motion, the respondents have filed a short reply. In the reply, the respondents have mentioned that all the benefits for which the petitioner was entitled for after the retirement on 30.04.2013, have already been paid and even the arrears on account of ACP on completion of 4, 9, 14 years of service have already been worked out to ₹2,02,892/- and the bill has already been submitted to the Treasury for the release of the said amount to the petitioner. Further the regular pension has already been paid to the petitioner, therefore, no further orders are required to be passed in respect of the claim of the petitioner in the writ petition. Averments made in the reply are as under:-

> *"3. That the petitioner retired from Govt. service on dated 30.04.2013 after attaining the age of superannuation. He was working as Supervisor at the time of his retirement.*
>
> *4. That it is submitted that all the retiral dues due to the*

petitioner have been released/paid as per the detail below:-

Sr. No.	Description	Amount	Remarks
1	GPF	1,60,834/-	Paid vide Cheque No. GDR 04011213015100288 Dated 01.12.2013
2	D.C.R.G.	3,94,523/-	Paid vide Cheque No. GDR 04041213009901 Dated 04.12.2013
3	Leave Encashment	3,09,430/-	Paid vide Cheque No. GDR040703140067002 Dated 07.03.2014
4	GIS	8976/-	Paid vide Cheque No. GDR 04070150131004 Dated 07.01.2015

5. *That arrear on account of ACP/Scheme i.e. completion of 4, 9, 14 years of service amounting to Rs. 2,02,892/- has been worked out and the same has been submitted to the Govt. Treasury for making online payment vide Bill No. 4844 dated 03.01.2017.*
6. *That regular pension has also been sanctioned to the petitioner by the o/o Accountant General, Punjab, Chandigarh vide PPO No. PEN-07/2181322193/2013-14/PE/13/1080037976 dated 15.07.2013*
7. *That there is delay, which is regretted and deponent tender unconditional apology for the same. It is humbly submitted that the answering respondents are filing short reply at this stage and craves the indulgence of this Hon'ble Court to file the detailed reply, if directed so."*

A bare perusal of the above narration would show that though all the payments for which the petitioner is entitled for have already been released but the same were not released immediately after the petitioner's retirement on 30.04.2013. From the perusal of the reply, it is clear that the GPF amount was paid to the petitioner on 01.12.2013, DCRG was released to the petitioner on 04.12.2013, leave encashment was paid to the petitioner on 07.03.2014 and amount of GIS was paid to the petitioner on 07.01.2015.

With regard to the arrears on completion of 4, 9 and 14 years of service amounting to ₹2,02,892/- were released after 03.01.2017.

Not only this, even the pension was sanctioned after a delay of approximately three and half months from the retirement of the petitioner. Respondents have admitted the said delay and have regretted also but mere apology will not suffice as the petitioner has not been paid his due immediately and a retired employee can only survive on the retiral benefits as the same are the dues, on which he has to take care of his life and lead a dignified life. Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab,*** 1997 (3) SCT 468, has held that where there is no valid justification for retaining the amount of an employee for which he/she becomes entitled for after his/her retirement, 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 from 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 the 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."*

Further, a Coordinate Bench of this Court in ***J.S. Cheema Vs.***

State of Haryana and others, 2014(13) RCR (Civil) 355, has held that where an amount, which is due to the employee, has been retained by the department and used also, the employee will be entitled for interest. The relevant paragraph of the judgment reads 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 the present case, the respondents have admitted the delay themselves and have sought apology, therefore, petitioner cannot be denied interest on the payment for which he become entitled for on his retirement on 30.04.2013. Petitioner is held entitled for interest @ 9% per annum from the date the payments became due to the petitioner till the same were actually released to him. Let the interest be calculated by the respondents within a period of two months from the date of receipt of certified copy of this order and the amount so calculated be released to the petitioner within a period of next one month.

The writ petition is allowed in above terms.

April 22, 2019 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

Whether speaking/reasoned? *Yes*
Whether reportable? *Yes*