**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 16282 of 2018
Date of Decision : 10.04.2019**

Gurinder Pal Kaur

...Petitioner

Versus

The State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Saguna Arora, Advocate for the petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

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Harsimran Singh Sethi, J.(Oral)

In the present writ petition, the claim of the petitioner is for the grant of interest on the delayed release of the retiral benefits in view of the settled principle of law settled by the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab, 1997 (3) SCT 468.***

As per the averments made in the writ petition, the petitioner joined as a Clerk on 18.05.1983 and thereafter promoted as a Senior Clerk on 18.05.1988. She was further promoted as a Junior Assistant on 01.01.1998 and then as a Senior Assistant on 29.05.2003. While working as a Senior Assistant, petitioner attained the age of superannuation. Thereafter, she was granted extension for a period of two years and ultimately, petitioner was retired from service on 30.04.2017.

Before the petitioner could retire, a charge-sheet was served upon her on 30.03.2017 in respect of not dealing with the case(s) of another employees for the release of the ACP. After her retirement, petitioner filed the reply but due to the pendency of the charge-sheet, her retiral benefits were not released. Ultimately, an order was passed on 15.09.2017 (Annexure P-3) by which, keeping in view the reply submitted by the petitioner, the charge-sheet was dropped. After dropping of the charge-sheet, payments were released to the petitioner, the details of which have been given in para 7 of the writ petition. The said details are as under:-

Sr. No.	Retiral benefits	Amount	Date of Payment
i)	D.C.R.G.	7,87,085/-	23.03.2018
ii)	Leave Encashment	4,84,360/-	17.03.2018
iii)	Commuted Pension	3,35,397/-	07.12.2017
iv)	Pension Arrears	1,97,387/-	07.12.2017
v)	G.P.F.	2,61,835/-	24.10.2017
vi)	G.I.S.	33,904/-	Still not paid

Learned counsel for the petitioner states that as the petitioner had retired in April, 2017 and the payments were made to her after undue delay, the petitioner is entitled for interest. Further, the contention of the petitioner in the writ petition is that even the amount of GIS has not been paid to her till the date of filing the present writ petition.

Upon notice of motion, the respondents have filed the reply. In the reply, the respondents have taken a stand that as there was a charge-sheet, which was served upon the petitioner on 30.03.2017 i.e. before her retirement on 30.04.2017, hence, the pensionary benefits were not released. After the charge-sheet was dropped on 15.09.2017, the pensionary benefits were released to the petitioner. Learned counsel for the respondents states that there is no delay in releasing the benefit and, therefore, the petitioner is not entitled for the interest. The details of the amount released to the petitioner as given in the reply, are as under:-

Sr. No.	Kind of Payment	Amount	Date of Payment
1.	D.C.R.G.	7,87,085/-	23.03.2018
2.	Leave Encashment	4,84,360/-	17.03.2018
3.	Commuted Pension	3,35,397/-	07.12.2017
4.	Pension Arrears	1,97,387/-	07.12.2017
5.	G.P.F.	2,61,835/-	24.10.2017
6.	G.I.S.	34,142/-	02.11.2018

I have heard learned counsel for the parties and have gone through the case file very carefully with their able assistance.

It is a matter of fact that the petitioner was issued a charge-sheet in March, 2017 before she retired. It is also a matter of fact that the respondents failed to substantiate the allegations which were alleged against the petitioner in the said charge-sheet and ultimately in September, 2017, the said charge-sheet was dropped. Further, as per the chart reproduced above, all the benefits were released to the petitioner after dropping of the said charge-sheet. Even if the charge-sheet was pending, except the DCRG and leave encashment, all the other benefits should have been released to the employee, which was not done in the present case.

Further, once the respondents failed to substantiate the allegations for which the charge-sheet was served upon the petitioner, and the same charge-sheet was dropped, the said pendency of the charge-sheet served by the respondents cannot cause prejudice to the petitioner. Because of the said action, the pensionary benefits of the petitioner were delayed for approximately one year. The said delay has to be treated as unjustified for the reason that the respondents withheld the benefits on the basis of false allegations which were alleged by them against the petitioner.

A Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab, 1997 (3) SCT 468*** has held that if there is unjustified delay in releasing the benefits, an employee will be entitled for interest. In the present facts and circumstances, the delay cannot cause prejudice to the petitioner and, therefore, the petitioner 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 the benefit of an employee has been retained by a Department and used, 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."

The case of the petitioner is squarely covered and, therefore, 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 her. 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 10, 2019 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

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