IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-16842-2018
Date of decision: - 20.03.2019

Nirmail Singh

....Petitioner

Versus

Punjab Water Resources and Development Corporation Limited and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Surinder Garg, Advocate
for the petitioner.

Mr. Sarthak Gupta, Advocate
for the respondents.

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HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the grievance which has been raised by the petitioner is that though he retired on 31.10.2017, the payments, for which he was entitled for, were delayed, hence he is entitled for interest on such delayed payments.

As per the averments made in paragraph No.5 of the writ petition, the payments were made on 05.04.2018 i.e. after a period of more than 5 months and therefore, the petitioner has prayed for grant of interest @ 18% per annum from the date on which the payment became due till the amount was disbursed.

Reply has been filed on behalf of the respondents today in the Court and the same is taken on record. A copy thereof has been supplied to counsel for the petitioner.

In the reply, the respondents have stated that the process for releasing the retiral benefits of the petitioner was started even prior to the date of his retirement. Further, the respondents pleads that there was a financial crunch in the Corporation and they were not having enough funds to make the payment. As soon as the funds were released in favour of respondent No.3 in March, 2018, the payments were made in April, 2018 to the petitioner and therefore, keeping in view the fact that there was a financial crunch, it cannot be said that the delay was intentional or unjustified.

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

In the present writ petition, the sole reason given by the respondents for making the payment after a delay of approximately five months i.e. the financial crunch, which is not a valid ground keeping in view the law laid down by this Court in **Ram Karan** Vs. **Managing Director, Pepsu Road Transport Corporation and another**, **2005(4) S.C.T. 438**, wherein, it has already been held that the weak financial position is no ground to withhold the payments in respect of the retiral benefits. The relevant paragraph of the said judgment is as under: -

> "8. On careful consideration of the rival submissions and the facts of the case, we do not find ourselves in agreement with the arguments advanced by the learned Counsel for the respondent-Corporation. In a welfare State it is the duty of the State to ensure the 'right to live' of every individual. The term 'life' as mentioned in

Article 21 of the Constitution of India includes livelihood and so many facts thereof. It means that something more than mere existence and inhabitation against the proposition of life and rather it extends to all the facilities by which life is enjoyed. In case a pensioner is not even paid the genuine dues like the medical reimbursement, he is not expected to enjoy the life nor will he feel secure. The Constitution of India contains a large number of rights which guarantee human rights. It recognises the right of every citizen to an adequate standard of life for himself and his family members, which also includes the improvement of living conditions besides providing adequate food, clothing and housing. A welfare State has to take all appropriate steps to ensure the realisation of these rights. The Apex Court in the case of **Chameli Singh v. State of U.P. 1996(2) SCC 549** has held as under:-

> "In any organised society right to live as a human being is not ensured by meeting only the animal needs of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions which inhibit his growth. All human rights are designated to achieve this object. Right to live guaranteed in any civilised society implies to right to food, water, decent environment, education,medial care and shelter. These are basic human rights known to any civilised society.
> xx xx xx xx Right to shelter when used as an essential requisite to the right to live should be deemed to have been guaranteed as a fundamental right. As is enjoined in the Directive Principles, the State should be deemed to be under an obligation to secure it for its citizens, of course subject to its economic budgeting. In a democratic society as a member of the organised civic community one should have permanent shelter so as to physically, mentally and intellectually equip oneself to improve his excellence as a useful citizen as enjoined in the Fundamental Duties and to be a useful citizen and equal participant in democracy. The ultimate object of making a man equipped with a right to dignity of person and equality of status is to enable him to develop himself into a cultured being."

9. A right to carry on business is reciprocated with a duty and constitutional obligations under the Constitution. Financial stringency may not be a ground for not issuing requisite directions

when a question of violation of fundamental rights arises. The Apex Court has also highlighted this aspect in a number of decisions, namely, Municipal Council, Ratlam, (1980)4 S.C.C. 163, **<u>B.L Wadhera v. Union of India</u>, <u>All India Imam Organisation and Ors. v. Union of India and Ors.</u>, <u>Kapila Hingorani v. State of Bihar</u>, 2003 (3) R.S.J. 42**. As far as back as in the year 1993, the Apex Court in All India Organisation's case (supra) observed as under:-

> "6... Much was argued on behalf of the Union and the Wakf Boards that their financial position was not such that they can meet the obligations of paying the Imams as they arc being paid in the State of Punjab. It was also argued that the number of mosques is so large that it would entail heavy expenditure which the Boards of different States would not be able to bear. We do not find any correlation between the two. Financial difficulties of the institution cannot be above the fundamental right of a citizen. If the Boards have been entrusted with the responsibility of supervising and administering the Wakf then it is their duty to harness resources to pay those persons who perform the most important duty namely of leading community prayer in a mosque the very purpose for which it is created."

A Division Bench while deciding the above-said case categorically held that the plea of weak financial position is no ground to withhold the pensionary benefits, therefore, the ground which has been taken by the respondents to withhold the pensionary benefits is contrary to the law laid down by the Division Bench and cannot be taken into consideration.

Keeping in view the above-said judgment, the reason which has been forwarded by the respondents for the delay in releasing the amount for which the petitioner is entitled for, cannot be considered as a valid ground. In the absence of any valid ground, the petitioner is entitled for interest on the delayed payment.

In view of the above, the present writ petition is allowed. The respondents are directed to calculate the interest @ 9% per annum on the delayed payments, which have been made to the petitioner. The interest shall be calculated from the day when the petitioner became entitled for the release of the amount till the actual payment was released to him.

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

(HARSIMRAN SINGH SETHI)
JUDGE

March 20, 2019
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Whether reasoned/speaking? Yes
Whether reportable? Yes