IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-18007-2018
Date of decision: - 15.07.2019

Ram Kumar

....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. V.D. Sharma, Advocate, for the petitioner.

Ms. Nidhi Garg, Assistant Advocate General, Haryana.

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HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the challenge is to the charge-sheet dated 12.10.2017 (Annexure P-6) and petitioner has also prayed for issuance of the appropriate directions to the respondents to release the gratuity, leave encashment, commutation of pension as well as the annual increments and the grant of 2^{nd} ACP benefits alongwith interest.

Short reply has been filed on behalf of respondents No.1 to 3 today in the Court and the same is taken on record. A copy thereof has been supplied to opposite counsel.

In the reply, the respondents have stated that the charge-sheet dated 12.10.2017 already stands dropped vide order dated 15.04.2019 (Annexure R-1) and the suspension period of the petitioner from 31.07.2015 to 03.10.2016 has been treated as a duty period for all intents and purposes and the arrears of the suspension period have already been released to the petitioner. Further it has been stated that the benefit of the said 2nd ACP has also been granted to the petitioner w.e.f. 01.01.2015 vide order dated 02.07.2019 (Annexure R-2) and consequently, the pay of the petitioner has been revised w.e.f. 01.01.2015 and further an annual increment w.e.f. 01.07.2016 has also been granted to him.

Counsel for the respondents states that petitioner is yet to submit the pension papers and after the petitioner submits the same, all the benefits for which he is entitled after his retirement will be released at the earliest. The relevant partition of the affidavit is as under: -

> "3. That in this context, it is submitted that the department vide order dated 15.04.2019 (Annexure R/1) has dropped aforesaid charge sheet dated 12.10.2017 and treated the suspension period from 31.07.2015 to 03.10.2016 as duty period for all intents and other purposes and the arrears for the suspension period has already been paid. The petitioner has been granted 2nd ACP w.e.f. 01.01.2015 vide order dated 02.07.2019 (Annexure R/2) and consequently, the pay of the petitioner has been revised w.e.f. 01.01.2015 and annual increment w.e.f. 01.07.2016 has also been granted vide order dated 04.07.2019 (Annexure R/3) and a copy of the same has been sent to the petitioner and requested to submit his pension papers. As soon as he submits the relevant documents, his pension and other retiral benefits will be released.
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> 4. That the present writ petition is rendered infructuous as claim made by the petitioner in writ petition has been given to the petitioner."

Counsel for the petitioner states that petitioner has already submitted the pension papers, which is being disputed by the counsel for the respondents keeping in view the instructions received from Sh.Dharampal, Asstt. and Sh. Rohit Sharma, ADA, office of Social

Justice & Empowerment Department, Haryana, Chandigarh, who are present in Court today.

Be that as it may, the petitioner shall appear on 22.07.2019 in the office of respondent No.2 at 11.00 AM and he will sign all the necessary documents, which are necessary for the release of the pensionary benefits on the said date itself.

Counsel for the respondents very fairly states that after 22.07.2019 the respondent-department be given two months time to release the pensionary benefits.

Let the pensionary benefits of the petitioner be released by 30.09.2019 and petitioner shall cooperate and submit all the necessary documents by 22.07.2019 or within a period of one week thereafter, as being demanded by the respondents.

Counsel for the petitioner prays that as the charge-sheet has been dropped after holding the enquiry, therefore, the petitioner becomes entitled for interest on the payments which are to be released to him keeping in view the instructions issued by the Government of Haryana dated 20.02.2002.

Counsel for the petitioner relies upon Clause 5(i) of the instructions dated 20.02.2002, which is as under: -

> "5. However, these instructions would not be applicable in cases where the payment of retiral benefits is withheld on account of disciplinary proceedings pending against the said employee at the time of his retirement. A further issue would also arise regarding payment of interest on the retiral benefits in case of such employees who are facing disciplinary proceedings at the time of their retirement/superannuation from Government service. These cases

should be decided in the following manner:

(i) In the case of an employee against whom disciplinary proceedings are pending at the time of retirement and the employee is clearly exonerated and steered clear of all the charges during the process of disciplinary proceedings and proved innocent, the retiral benefits due to him should be paid along with interest from the date of retirement till the date of payment."

A bare perusal of the above instructions would show that the respondents-State has already decided that in case where the charge-sheet is dropped against an employee, the employee will become entitled for the interest as well.

Counsel for the respondents is unable to rebut the said proposition of law.

Furhter, in the case of **J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355,** a Co-ordinate Bench of 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."

The case of the petitioner is squarely covered by the instructions dated 20.02.2002 as well as the settled principle of law reproduced above and therefore, the respondents are directed to grant the petitioner interest @ 9% per annum from the date the amount became due till the same will be actually released to him on the payments which are being released now after dropping of the charge-sheet dated 12.10.2017. The amount of interest shall also be released to the petitioner by 30.09.2019 as undertaken by the respondents.

Present writ petition stands disposed of in the above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

July 15, 2019
naresh.k

Whether reasoned/speaking?	Yes
Whether reportable?	No