IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-18385 of 2018
Date of decision: 29.10.2019

Amar Nath Chauhan .... Petitioner

versus

State of Haryana and others .... Respondents

CORAM:HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sandeep Panwar, Advocate
for the petitioner.

Mr. C.S. Bakhshi, Addl. A.G. Haryana.

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HARSIMRAN SINGH SETHI, J. .

Learned counsel for the petitioner states that the petitioner retired on attaining the age of superannuation on 31.12.2017, but his gratuity and commutation of pension was only released on 15.11.2018. The claim of the petitioner is that as the pensionary benefits of the petitioner were withheld by the respondents without any valid justification and were released after the reasonable time, the petitioner is entitled for interest on the said delayed payments.

As per the averments made in the writ petition, the petitioner initially joined as Sub Divisional Engineer on 11.3.1991 and, thereafter, he was promoted as Executive Engineer on 27.10.2008 and he ultimately retired on 31.12.2017. Learned counsel for the petitioner argues that at the time of retirement of the petitioner, there were no proceedings pending against the petitioner either departmental or before any competent Court of law, which would have entitled the respondents to withhold his pensionary benefits, still commutation of pension and gratuity were not released by the respondents. Counsel for the petitioner argues that though the gratuity amounting to Rs.20,00,000/- and commutation of pension amounting to Rs.31,07,985/- was sanctioned on 15.11.2018, but the same was actually credited in the account of the petitioner on 28.11.2018. Therefore, the petitioner is entitled for interest on the delayed payments from the date payments had become due.

Upon notice of motion, the respondents have filed short reply. No justification is given by the respondents in the reply, as to why, the payment of the retiral benefits of the petitioner has been released after the delay of eleven months except that payments due to the petitioner have already been released.

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

A Full Bench of this Court in ***A.S. Randhawa vs. State of Punjab 1997(3) S.C.T. 468*** has held that an employee will be entitled for release of his pensionary benefits within a reasonable time after his retirement and the reasonable time as per the Full Bench is two months. In the present writ petition, though the petitioner retired on 31.12.2017 but the payment of gratuity and commutation of pension was released on 28.11.2018 i.e. after a delay of more than eleven months without any valid justification. Relevant paragraph of the 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 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."

Further a Co-ordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana 2014 (13) RCR (Civil) 355*** held that where an amount is retained and used by the respondents/employer, an employee will be entitled for interest on the same. Relevant paragraph of the judgment 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."

In the present writ petition, the retiral benefits of the petitioner have not been released by the respondents within the reasonable time without any valid justification, and were retained by the respondents department and therefore, the petitioner is entitled for interest on delayed release of payment in view of the law laid down in **A.S. Randhawa (supra)** and **J.S. Cheema (supra)**.

Keeping in view the above, the present writ petition is allowed. The petitioner is held entitled for interest on the delayed payment of gratuity and commutation of pension @ 9% per annum from the date it became due till the same was actually released to the petitioner.

Let computation of the interest, for which the petitioner is entitled as per this order be carried out within a period of two months from the date of receipt of copy of this order and the payment so calculated be released to the petitioner within a period of one month thereafter.

(HARSIMRAN SINGH SETHI)
JUDGE

29.10.2019
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1. Whether speaking/non-speaking? Yes/No
2. Whether reportable? Yes/No