IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-23795 of 2016
Date of decision: 13.08.2019

Kartar Singh .... Petitioner

versus

State of Punjab and others .... Respondents

CORAM:HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: None for the parties.

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HARSIMRAN SINGH SETHI, J.

In the present writ petition, the grievance of the petitioner is for the release of pensionary benefits, after he attained the age of superannuation on 31.03.2014. In the reply, the respondents have stated that all the benefits for which the petitioner was entitled have already been released to him. Relevant paragraph of the reply is as under:-

> "That it is submitted that the petitioner who was working in the respondent Department and was posted as Beldar was retired from the services of the respondent Department on 31.10.2012. After his retirement, the respondent No.2 Executive Engineer sanctioned the leave encashment, GPF fund and Death-cum-Retirement Gratuity of the petitioner and sent the same to the Treasury Officer, Abohar for releasing the payment to the petitioner, as per detail given below:
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> 1. Leave encashment: Rs.2,51,640/- (sanctioned vide order No.3477 dated 07.11.2014 Annexure R-1.
> 2. GPF Fund Rs.2,60,469/- (sanctioned vide order No.5116 dated 21.01.2015) Annexure R-2.
> 3. Death-cum-Retirement Gratuity Rs.4,40,370/- (sanctioned vide order No.4732-34/Pen-PF dated 12.02.2018) Annexure R-3.
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> Further, it is here submitted that office of Accountant General (A&E), Punjab Pension Section, Chandigarh has issued Pension payment order in favour of petitioner vide letter No. PEN-19/2181768949/2017-18/PE/18/10/80149584. Dated 19.01.2018 (Annexed as Annexure R-4).

> That the alleged grievance of the petitioner that he has not been paid the retiral benefits and his service record has not been completed, is totally false and baseless in view of the fact that only after completing the service, the retiral benefits are paid and the pensionary case is processed and sent to the competent authority and further, all the retiral benefits and pensionary benefits have been given to the petitioner. The petitioner is not entitled to any interest because petitioner's due retirement date was 31.10.2012 but he was retired on 31.03.2014. In this way petitioner worked in the respondent department for excess period of 20 months over and above his due date of retirement. So, in this regard, there is no alleged delay on the part of the respondent department. The petitioner has mentioned false facts. As such, no cause of action has accrued to the petitioner to file the present petition.

From the pleadings, it transpires that though the petitioner retired on 31.3.2014 but his retiral benefits were released in November 2014, January, 2015 and February, 2018. Respondents in their reply, have stated that petitioner is not entitled for interest on the ground that due date of retirement of the petitioner was 31.10.2012 (though actual date of retirement is 31.7.2012), but he continued working inadvertently and he was actually retired on 31.03.2014 and, therefore, as the petitioner has worked for a period of twenty months over and above the due date of his retirement, no interest can be claimed.

If the petitioner has continued in service beyond the date of his retirement, the same was only attributable to the respondents. It was the respondents' duty to see that the petitioner is retired, from the date, he attained the age of superannuation. Further, the petitioner retired on 31.03.2014 and upon his retirement his pensionary benefits should have been released by the respondents in reasonable time. The leave encashment was delayed by a period of seven months; General Provident Fund released in January 2015, approximately after 10 months of his retirement and gratuity was released in February, 2018 after a period of four years. No justification has been given, as to why, these benefits were released after such a delay.

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 reasonable time after his retirement and the time fixed by the Full Bench is two months. In the present writ petition, the benefits were released much beyond the reasonable time of two months fixed by the Full Bench. 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 front 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."

The case of the petitioner is fully covered for the grant of interest keeping in view the directions given by the Full Bench in A.S. Randhawa's case (supra). Not only this, 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 part 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 case, no justification is given by the respondents for retaining the amount after the petitioner retired in March, 2014.

Keeping in view the above, the present writ petition is allowed to the extent that the petitioner will be entitled for interest on the delayed release of pensionary benefits @ 9% per annum from 01.06.2014 onwards till the payments were released to the petitioner. Let a computation of the interest, for which the petitioner is entitled under 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 two months thereafter.

The petition stands partly allowed in the above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

13.08.2019
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1. Whether speaking/non-speaking? Yes/No
2. Whether reportable? Yes/No