IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

231 **CWP-23970-2016**
Date of Decision : 02.07.2019

Charanjit Singh

... Petitioner

Versus

The Punjab State Cooperative Supply & Marketing Federation Ltd. and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Atul Kaushik, Advocate
for the petitioner.

Mr.Aseem Rai, Advocate
for respondents No.1 and 2.

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<u>Harsimran Singh Sethi, J.(Oral)</u>

In the present writ petition, the grievance which is raised by the petitioner is that after his retirement on 30.11.1997, the benefits for which he was entitled for, were not released and the said act was without any valid justification. Prayer in the writ petition is for the release of the retiral benefits such as gratuity and leave encashment along with interest.

The facts as mentioned in the writ petition are that the petitioner was appointed as an Accountant in the year 1968 and thereafter, the petitioner earned various promotions and at the time of the retirement, the petitioner was working as a Liaison officer with the respondents. It is admitted by the petitioner in the petition that at the time of the retirement, petitioner had taken car loan and there were some other recoverable amount, which were standing against the name of the petitioner. The details of the same have been mentioned in paragraph 5 of the writ petition. As the retiral benefits were not being released, the petitioner filed the present writ petition.

After the notice of motion, the respondents have filed the reply, in which, the respondents have attached an order dated 02.06.2017 (Annexure R-1) wherein, the respondents had decided to release the benefits for which the petitioner was entitled for after his retirement, but after deducting a sum of Rs.3,51,019/-, which was standing against the name of the petitioner on account of car loan and other advances, which were given to the petitioner during his service carrier.

Counsel for the petitioner informs this Court that a sum of Rs.88,000/-was paid to the petitioner on 16.12.2017. Counsel for the petitioner argues that the petitioner was entitled for this amount in the year 1997 when he retired but the same has been paid after an expiry of 20 years and that to without any valid justification.

In the reply, no justification has been given as to why, the amounts for which the petitioner was entitled for were not released to him immediately upon his retirement and why, the amount was retained for more than 20 years. In the absence of any justification given in the reply, it can be safely presumed that there was no impediment in the release of the amount of Rs.88,000/- when the petitioner retired from service on 30.11.1997.

Prayer which is being made by the petitioner now is that the petitioner should be paid interest on the amount of Rs.88,000/- which has been released to him on 16.12.2017 i.e. after 20 years of his retirement.

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

Facts stated before are not in dispute. It is admitted by the respondents that there was no impediment in release of the amount of Rs.88,000/- which was released after 20 years of the retirement of the petitioner.

Full Bench of this Court in ***A.S.Randhawa vs. State of Punjab, 1997(3) S.C.T. 468,*** has held that where the retiral benefits have not been released within a reasonable time, employee will be entitled for interest. The 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.*"

A Co-ordinate Bench of this Court in ***J.S.Cheema vs. State of Haryana and others, 2014(13) RCR (Civil) 355,*** has held that where an amount for which an employee was entitled for has been retained by the employer, the employee will be entitled for interest. The relevant paragraph of the same is as under :-

> *"In my opinion, even if the assertion made in the written statement is presumed to be correct it would not disentitle the petitioner for claiming interest. 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."*

Keeping in view the above that no valid justification has come from the respondents in the written statement for withholding the amount of Rs.88,000/- for a period of 20 years, it can be safely presumed that there was no valid justification with respondents to withhold the amount, and therefore, the case of the petitioner is squarely covered by the decisions rendered by the Full Bench of this Court ***A.S.Randhawa's case (supra)*** as well as ***J.S.Cheema's case (supra)***.

The present writ petition is allowed. Respondents are directed to grant the petitioner interest @ 6% per annum from the date the amount became due i.e. 01.12.1997 till the same was released in favour of the petitioner. Let the interest be calculated by the respondents within a period of two months and the interest so calculated will be released to the petitioner within a period of one month thereafter.

The writ petition stands disposed of in the above terms.

(HARSIMRAN SINGH SETHI)
July 02, 2019 **JUDGE**
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Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No