

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 19168 of 2018
Date of Decision: 15.05.2019**

Suresh Kumar

...Petitioner

Vs.

District and Sessions Judge, Sangrur and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Karan Garg, Advocate
for the petitioner.

Ms. Jasleen Sidhu, AAG, Punjab

None for respondents No.1 & 2

RAJIV NARAIN RAINA, J. (Oral)

1. This writ petition has been preferred under Article 226 for directing the respondents to release pension and pensionary to the petitioner benefits with interest @ 18% per annum.

2. The petitioner was appointed as a Clerk on 19.05.1981 in the Sessions Division, Sangrur and served the department till 30.11.2009. While working as Nazir he was compulsorily retired vide order dated 18.11.2009 passed by the District & Sessions Judge, Sangrur.

3. Against the above said order, the petitioner submitted Service Appeal before the High Court on the administrative side. The Hon'ble Administrative Judge vide order dated 03.11.2017 while taking a lenient view and taking the fact that the petitioner had served the department for

more than 28 years and on examining his previous good service record, ordered substitution of the order of compulsory retirement by way of punishment to that of voluntary retirement from the same date.

4. The petitioner submits that consequent to that order his pension has been fixed and retirement benefits have been released during the pendency of this petition. Payment of General Provident Fund (GPF) of Rs.8,62,984/- along with interest from 30.11.2009 to 30.06.2017 stands credited into his account on 02.06.2018. However, interest on GPF amount for the period from 01.07.2017 till payment i.e. 02.06.2018 was not paid to him. Similarly, an amount of Rs.1,51,260/- on account of Earned Leave encashment was paid on 09.03.2018 but interest on this amount from 30.11.2009 to 08.03.2009 has not been awarded to the petitioner.

5. Thus, the claims of the petitioner have been substantially satisfied during the pendency of the writ petition with the payment of pension and pensionary benefits. However, what remains is the claim for interest on delayed payments of retiral dues. There can be no question of interest being paid from 30.11.2009 to 03.11.2017 when the entire aspect of the case was changed by orders in service appeal against the punishment order inflicted on the petitioner. However, with the passing of the order dated 03.11.2017, both the Sessions Division and the State became responsible to re-determine the retiral benefits and to pay them in terms of the modification of the penalty order.

6. It is well settled that proper time for the disbursement of retiral benefits will depend on the facts and circumstances of each case but normally it should be at least within three months from the date of

retirement. Therefore, reasonable time within which the authorities were expected to act would be at least 03 months, thereafter, the interest would accrue because money became the rightful due of the retired person and State is assumed to have earned interest on that amount.

7. There is no necessity to hear the Sessions Division which is served but is not represented probably on account of the liability falling on the State Government. It is in a non-contest position with the order in service appeal. The claim for interest on delayed reitral benefits is against the State of Punjab. Though the Accountant General (A&E), Punjab is party respondent No.3 but the petitioner has not impleaded the State of Punjab as a party respondent while he should have. On the oral request of the learned counsel for the petitioner, the State of Punjab through the Secretary Home & Judicial Affairs to Government of Punjab, Punjab Civil Secretariat, Chandigarh is ordered to be impleaded as respondent No.4. Addition has been made by hand in the cause title in Court. On the asking of the Court, Ms. Jasleen Sidhu, AAG Punjab accepts notice on behalf of the newly impleaded respondent. A copy of the petition has been handed over to her.

8. Heard learned counsel for the petitioner and the State on the short point of interest which is the surviving issue. This Court is of the considered opinion that interest on delayed payment has not been awarded to which the petitioner is legally entitled. A writ in the nature of mandamus is legally maintainable for giving a direction to make the payment where it is justified in view of judgment of the full bench delivered in **A.S.Randhawa vs. State of Punjab & others**, 1997 (3) S.C.T. 468. Gist of the aforesaid judgment is that a writ for direction to pay retiral benefits including interest

is maintainable and that pensionary benefits, if released after culpable delay and without proper justification, entitles the incumbent to interest at the rate of 12%, which may even go up to 18% per annum. But that decision was rendered in the year 1997 and the rate of interest has been considerably watered down due to the changing economic regime. 12% interest is also too high as fixed deposits in nationalized banks which carry normally not more than 6.8% and for senior citizens it is 7.8%. Claim for interest @ 18% per annum is declined.

9. Within the facts of this case, I would say the reasonable rate of interest payable on delayed payment ought to be rounded off at 8% per annum w.e.f. 01.02.2018 i.e. after the expiry of 3 months from 03.11.2017, when the service appeal of the petitioner was allowed and right to service benefits accrued to him for the first time. Thus, it is directed that interest on delayed payment from 01.02.2018 till the date of actual payment be calculated by the Government after tying up with the 1st and 3rd respondent, if necessary, for completion of paper-work and the interest determined on the principal sum be paid to the petitioner within a period of three months from the date of receipt of a certified copy of this judgment and order.

10. With the above observations and directions, the petition is partially allowed and is disposed of.

(RAJIV NARAIN RAINA)
JUDGE

15.05.2019

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Whether speaking/reasoned : *Yes*
Whether reportable : *Yes/No*