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

(211) **CWP-25869-2015**
Date of Decision: August 21, 2019

Balwant Singh **.. Petitioner**

Versus

State of Punjab and others **.. Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. B.S. Jaswal, Advocate, for the petitioner.

Ms. Sunint Kaur, AAG, Punjab.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the grievance which is being raised by the petitioner is that though petitioner retired from service on attaining the age of superannuation on 31.10.2013 but his pensionary benefits were not released within a reasonable time after his retirement. The prayer in the present writ petition is for issuance of a direction to the respondents to release all the retiral benefits of the petitioner along with interest.

Learned counsel for the petitioner argues that there was no impediment in the release of the pensionary benefits of the petitioner as there were no proceedings pending against the petitioner at the time of his retirement, which would entitle the respondents to withhold the pensionary benefits but still without any valid justification, the benefits, for which the petitioner became entitled for after his retirement, were not being released.

Learned counsel for the petitioner admits that during the pendency of the writ petition, all the benefits have been released to the petitioner. Counsel for the petitioner argues that as the benefits for which the petitioner was entitled for immediately upon his superannuation on 31.10.2013, were released after undue delay, therefore, petitioner is entitled for interest on the said payments keeping in view the law laid down by the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab, 1997 (3) SCT 468.***

Upon notice of motion, respondents have filed the reply and in the reply, only defence taken for the delayed release is that the case of the petitioner after his retirement was sent to the Accountant General, Punjab and there were some objections which were raised by the Accounant General, Punjab, which were removed and thereafter, again the case was sent and after removing the objections as raised by the Accountant General, Punjab and after getting their approval for payment of pensionary benefits, petitioner was paid the benefits.

In the reply, no details were mentioned stating as to on what date, the benefits were released to the petitioner and therefore, on 01.05.2019 this Court directed the competent authority to file an affidavit stating the details of the amount released to the petitioner along with the dates.

Keeping in view the order passed by this Court on 01.05.2019, an affidavit has been filed by Sh. Kulwinder Singh, Executive Engineer, Drainage Construction Division, Amritsar dated 16.08.2019 wherein, following averments have been made:-

> "*5. That in this regard, it is submitted that as the petitioner stands retired on attaining the age of superannuation on 31.10.2013. His pension case was prepared and sent to the office of the Account General, Government of Punjab, and after obtaining the necessary sanction from the Government, all his retiral benefits have been released to him.*
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> *6. That the detail of the payment of retiral benefits*

under various heads alongwith the dates is being given as under:

Sr. No.	Name of Head of Retrial benefit	Amount (in Rs.)	Date of Payment
1	Leave in Encashment	40,860/-	02/06/14
2	GIS	403/-	04/06/14
3	Gratuity	90,131/-	06/12/17
4	CPF	44,552/-	01/05/18

7. That as per the letter dated 29.5.2017 received from the office of Accountant General, Punjab, it is evident that a sum of Rs.1,01,972/- was calculated on account commuted value of pension and the same stands released on 02.10.2017 in the bank account of the petitioner by the office of District Treasury Office, Amritsar. Apart from this, his monthly pension has been fixed as Rs.3500/- per month by the office of Accountant General Punjab, which is being paid regularly to the petitioner."

Learned counsel for the respondents states that as there were objections raised by the office of Accountant General, Punjab and it took time to remove the objections, therefore, it cannot be said that the delay in release of payments to the petitioner was without any valid justification and therefore, the prayer of the petitioner for the grant of interest is liable to be rejected.

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

It is not disputed that petitioner retired on 31.10.2013. It is further not disputed that there were no proceedings pending against the petitioner on his date of retirement, which would entitle the respondents to withhold the pensionary benefits. The only objection, which has been taken by the respondents to justify the delay is that there were some objections taken by the Office of Accountant General, Punjab when the case of the petitioner was sent for approval. The raising of the objection by the office of Accountant General, Punjab and clearing of the same by the Administrative Department is a matter between these authorities only. In case, the objections raised by Accountant General, Punjab were frivolous, the Administrative Department will be liable for interest on the same as the office of Accountant General, Punjab is an agent of the Administrative Department.

If the objection raised by the office of Accountant General, Punjab, was valid still, the Administrative Department is to bear burden for paying the interest upon the delayed payments as it is the duty of the Administrative Department to get approval of the payment of pension and pensionary benefits of an employee from the office of Accountant General, Punjab prior to the retirement or within a reasonable time after retirement.

It is an admitted fact that the payments were released to the petitioner starting from 02.06.2014 onwards till 01.05.2018.

It cannot be said that it took eight months time for the respondents to clear the objections. Once the leave encashment was paid on 02.06.2014, why it took respondents four years to release the CPF amount in May, 2018. No valid justification has come forward from the respondents in respect of the delayed release of the payments. In the absence of any valid justification, petitioner will be entitled for the grant of interest. A Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab, 1997 (3) SCT 468,*** has held that where there is unjustified delay in releasing the pensionary benefits, employee will be entitled for interest. The relevant portion of the said 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. Padmanbhan 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."

Not only this, a Coordinate Bench of this Court while deciding ***J.S. Cheema Vs. State of Haryana and others, 2014 (1) S.C.T. 782***, has held that in case an amount for which the employee is entitled for, has been retained by the department and used, the employee will be entitled for the interest on the same. The relevant paragraph of the said 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."

The case of the petitioner is squarely covered by the above said proposition of law. Petitioner is held entitled for interest @ 9% per annum from the date when the petitioner became entitled for the said amount till the date when the same was released to the petitioner. Let the calculation of the interest for which petitioner becomes entitled for under this order, be done within a period of two months from the receipt of copy of this order and the amount so calculated by the respondents shall be released to the petitioner within a period of one month thereafter.

The writ petition is allowed in above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

August 21, 2019
harsha

Whether speaking/reasoned: Yes
Whether reportable: Yes