IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 26848 of 2015
Date of Decision : 06.02.2019

Ved Parkash

...Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Limited and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ram Niwas Sharma, Advocate for the petitioner.

Ms. Geeta Sharma, Advocate for the respondents.

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Harsimran Singh Sethi, J.(Oral)

In the present writ petition, the grievance which has been raised by the petitioner is that though he retired on 30.04.2009 but the actual retiral benefits were released to him only on 22.09.2010 and, therefore, as per the settled principle of law settled by the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab, 1997 (3) SCT 468*** as well as by the Co-ordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana and others, 2014(13) RCR (Civil) 355,*** he is entitled for the grant of interest on the delayed release of the pensionary benefits.

The facts which have been stated in the present writ petition are that the petitioner was appointed as ALM on 03.02.1969. Thereafter, he was promoted as a Lineman on 06.03.1973. On 10.11.1995, petitioner was promoted as Assistant Foreman and thereafter on 18.05.2007, the petitioner was promoted as a Junior Engineer. While working as Junior Engineer, the petitioner attained the age of superannuation and retired on 30.04.2009.

Learned counsel for the petitioner contends that the benefits for which the petitioner was entitled for immediately after retirement were not released within a reasonable time. Learned counsel further contends that DCRG amounting to ₹3,95,301/-, commutation pension amounting to ₹3,92,406/- and arrears of pension amounting to ₹51,357/- was paid to the petitioner on 22.09.2010. Learned counsel for the petitioner states that as there is a delay of approximately one and half year in releasing the pensionary benefits, the petitioner is entitled for the interest on the said delayed payment.

Upon notice of motion, the respondents have filed the reply. In the reply, the respondents have contested the claim of the petitioner for the grant of interest on the ground that in the year 2009, there was a revision of pay scale and, therefore, department first wanted to revise the pay of the petitioner in the revised pay scale and then calculate the pensionary benefits and, therefore, delay of one and half year is occurred, which is procedural and is not intentional and, therefore, the petitioner is not entitled for interest.

I have heard learned counsel for the parties and have gone through the record.

Once an employee retires, he/she is entitled for the pensionary benefits, if not immediately but within a reasonable time definitely. In the present case, it is admitted by the respondents that the benefits were released to the petitioner on 22.09.2010. Though there may be a ground that the respondents wanted to revise the pay of the petitioner in view of the revised pay scale but that cannot be a ground to withhold the pensionary benefits. Fixing of pay in the revised pay scale cannot take one and half year and, therefore, even this ground will not come to the rescue of the respondents for the denial of the interest.

This Court while deciding ***A.S. Randhawa's case (supra),*** has held that once there is a delay in releasing the amount and which is not justifiable, the employee will be entitled for interest. The relevant paragraph 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. 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 the 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, the Co-ordinate Bench while deciding ***J.S. Cheema's case (supra)*** has held that where the department keeps the amount, for which an employee is entitled for, with itself, the interest is to be paid. 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."

In view of the above, the case of the petitioner for the grant of interest is squarely covered by the abovesaid decisions and the petitioner is held entitled for interest @ 9% per annum from the date it became due till the amount was released to the petitioner.

Let calculation of the actual amount for the grant of interest, for which the petitioner becomes entitled for, be done within a period of two months from the date of receipt of certified copy of this order and the actual payment be released within a one month thereafter.

The writ petition stands allowed in above terms.

February 06, 2019 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

Whether speaking/reasoned? Yes
Whether reportable? Yes