

-= IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-22501 of 2017

Date of decision: 22.10.2019

Kashmir Kaur

.... Petitioner

versus

State of Punjab and others

.... Respondent

CORAM:HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: None for the petitioner.

Mr. Navdeep Chhabra, DAG, Punjab.

Mr. R.S. Bhatia, Advocate for respondent No.5.

HARSIMRAN SINGH SETHI, J. .

In the present writ petition, the claim of the petitioner is that she became entitled for revised pension @ Rs.10,145/- per month w.e.f. 01.08.2006 but instead of the said amount, she was being paid Rs.5930/- per month and the benefit of the said revised pension is not being released to the petitioner, though, a revised PPO, holding the petitioner entitled for revised pension of Rs.10,145/- per month w.e.f. 01.08.2006 has already been issued by the Accountant General, Punjab as far back as in January, 2013. The prayer of the petitioner is to direct the respondents to release the arrears of the pension alongwith interest.

As per the averments made in the writ petition, the petitioner joined Education Department on 29.09.1972 and retired as Head Teacher on 31.07.2006. At the time, when the petitioner retired, pension of the petitioner was fixed @ Rs.5930/- per month, which was released to her. After the retirement of the petitioner, the State of Punjab revised the pay

scales of its employees in the year 2009 w.e.f. 01.01.2006 and keeping in view the said fact, petitioner became entitled for revised pay scale on 01.01.2006, alongwith arrears of pay as well as for revision of her pension on the revised pay scale alongwith arrears w.e.f. 01.08.2006.

Petitioner contends that after the revision of the pay scale, the petitioner became entitled for monthly pension of Rs.10,145/- instead of Rs.5930/- but the same was not being released though the PPO for revised pension to the tune of Rs.10,145/- had already been issued by the Accountant General, Punjab on 11.01.2013.

Upon notice of motion,, respondents have filed reply, in which respondents have admitted the factual scenario and also attached revised PPO dated 11.01.2013, by which the petitioner was found entitled for enhanced monthly pension of Rs.10,145/-w.e.f. 01.08.2006. No explanation has been given in the reply by the respondents as to why the said PPO was not implemented.

Learned counsel for the respondents on instructions from Ms. Manjit Kaur, DTO, who is present in the Court, states that revised PPO dated 11.1.2013 has already been implemented and arrears of the revised pension amounting to Rs.4,58,163/- has been granted to the petitioner on 30.04.2018.

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

The only question which arises for determination is as to whether the petitioner is entitled for any interest on the delayed release of the revised pension or not. Keeping in view the facts and circumstances, which have

been noted above, the petitioner became entitled for revision of her pay as well as her pensionary benefits in the year 2009, when the State of Punjab revised the pay scales of its employees w.e.f. 01.01.2006. The benefit of revised pay scale and consequential revised pensionary benefits was not extended to the petitioner by revising her pension for about five years though on 11.01.2013, the respondents issued revised PPO to the effect that petitioner is entitled for revised pension @ Rs.10,145/- per month w.e.f. 01.08.2006. Though, there was no impediment in the release of the revised pension as sanctioned on 11.01.2013 alongwith arrears but the same was not done by the respondents for a period of more than four years thereby forcing the petitioner to approach this Court by filing the present writ petition. After the present writ petition was filed in the year 2017, the respondents took another year to implement their own order dated 11.1.2013, revising the pension of the petitioner as it is admitted by the respondents that arrears of the revised pension were only released to the petitioner on 30.04.2018

There is no valid justification given by the respondents, as to why, the respondents have taken nine years, from the date when the State of Punjab revised the pay/pension of its employees in the year 2009 w.e.f. 01.01.2006 to release benefit of revised pension to the petitioner in the year 2018. The issue becomes more aggravated as an order was passed in the year 2011 revising the pension of the petitioner to tune of Rs.10,145/- w.e.f. 01.08.2006 but the same was not given effect to by the respondents without any valid justification, which forced the petitioner to approach this Court. During the course of hearing, learned counsel for the respondents has not been able to point out any hindrance, which was there in the implementation of the order dated 11.01.2013, by which the benefit of revised pension was to be extended to

the petitioner. In the absence of any cogent reason and valid justification, the action of the respondents in not releasing the revised pension in pursuance to the revised PPO dated 11.01.2013 is held to be arbitrary.

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 is entitled for release of his/her pensionary benefits within a reasonable time after his/her retirement and the reasonable time as per the Full Bench is two months. In the present writ petition, the petitioner became entitled for revision of her pay w.e.f. 01.08.2006. It was incumbent upon the respondents to revise the pension of the petitioner and release the same within a reasonable time but respondents have taken four years to pass an order to this effect which was passed in January 2011 and, thereafter, took another five years to implement the same. Thus, 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)**. 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 retiree 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.”

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 paragraph 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.”

Keeping in view the facts and circumstances of the present case, where the respondents have acted in negligent manner in not implementing their own order for a period of five years and that too without any valid justification. Present writ petition is allowed. Petitioner is held entitled for interest @ 9% per annum from the date the amount became due i.e. in the year 2009, when the pay scales were revised by the Government of Punjab till the amount of arrears of the revised pension was actually released in favour of the petitioner. The petitioner will also be entitled for cost of Rs.5,000/- to be paid by respondent No.1 to the petitioner. Respondent No.1 will be entitled to recover the said cost, in case it is found that any officer was responsible for the same after following due procedure of law.

Let this order be complied with within a period of two months from the date of receipt of certified copy of this order and the amount of interest be also released within a said period.

(HARSIMRAN SINGH SETHI)

JUDGE

22.10.2019

aarti 1. Whether speaking/non-speaking?

Yes/No

2. Whether reportable?

Yes/No