IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

(269) **CWP-23595-2017**
Date of Decision: April 03, 2019

Shekhar Chander **.. Petitioner**

Versus

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

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ram Pal Rana, Advocate, for the petitioner.

Mr. Mehardeep Singh, Addl. A.G., Punjab.

Ms. Akansha Sawhney, Advocate, for
Ms. Priyanka Dalal, Advocate, for respondent No. 3.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the grievance which is raised by the petitioner is that the petitioner retired on 31.10.2015 while working on deputation with the Chandigarh Administration but the amount of death-cum-retiral gratuity was released to the petitioner after a delay, which delay was not attributable to the petitioner and the benefits were received by the petitioner in the month of November, 2016 and therefore, the petitioner is entitled to be paid the interest for a period of one year on the said amount keeping in view the settled principle of law settled by the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab, 1997(3) S.C.T. 468.***

Upon notice of motion, the replies on behalf of respondents No. 1 and 2 as well as respondent No.3 have been filed. In the reply filed by respondent No.3, where the petitioner was working on deputation, it has been stated that the petitioner failed to submit the complete pension papers before his retirement. As per the Rules, the petitioner was required to submit full pension papers six months prior to the retirement but incomplete pension papers were submitted by the petitioners on 03.07.2015, which pension papers were returned to the petitioner being incomplete. Thereafter, the petitioner again submitted the pension paper on 22.07.2015 which was processed and ultimately respondent No.3 forwarded the pension case of the petitioner to respondent No.2, being the competent authority to approve the pension and forward the same to the office of the Accountant General, Punjab. In the reply, respondent No.3 has stated that the case of the petitioner was forwarded to respondent No.2 on 23.09.2015 i.e. approximately one month before the petitioner was to superannuate. Though, the pension papers were required to be submitted at least six months before retirement but same were submitted a month before the retirement therefore, the delay is only attributable to the petitioner and not to respondent No.3.

Learned counsel for respondents No. 1 and 2 states that as soon as the pension papers were received from respondent No.3, the same were processed and were forwarded in November, 2015 itself to the Accountant General, Punjab for an appropriate approval. The DCRG admissible to the petitioner was sanctioned by the office of the Accountant General, Punjab on 04.02.2016 and after the sanction, the bill was sent to the Treasury and ultimately, the amount of DCRG was credited to the bank account of the petitioner on 29.09.2016. The relevant paragraph of the reply of respondents No. 1 and 2 is as under:-

" *2. That it is submitted that the petitioner was* *retired from service after availing two years extension in service on 31.10.2015. As a matter of policy the case for pension and payment of gratuity has to be sent to the Accountant General, Punjab six months prior to the retirement. The case of the petitioner in respect of releasing retiral benefits was received in the respondent No.2 office on 12.10.2015 vide receipt No.2267, (Budget). The pension case sent by the Respondent No.3 was delayed by six m onths. Respondent No.2, after taking necessary action thereof sent the pension and DCRG (for brevity Death cum Retirement Gratuity) case to Accountant General, Punjab on 17.11.2015. Finally, Accountant General, Punjab released DCRG amounting to Rs.10,00,000/- on 12.04.2016 sanction thereof was issued by the respondent No.2 on 05.05.2016. Thereafter bill was sent to the State Treasury for releasing online payment to the petitioner and the same was credited his bank a/c on 29.11.2016.*

3. That as the petitioner was on deputation with respondent No.3, therefore, it was the liability of the respondent No.3 to ensure that the case in respect of pension in complete form should be sent six months prior to the retirement as per Punjab Govt. instructions from time to time. But the respondent No.3 had not complied with the Govt. Instructions and sent the pension case to the respondent No.2, nineteen days before the retirement. Thus the respondent No.3 did not follow the Government Instructions."

No replication has been filed by the petitioner to the written statement filed on behalf of the respondents.

I have heard learned counsel for the parties.

From the pleadings recorded above, it is clear that the petitioner failed to submit his pension papers before six months of his retirement as envisaged under Rules. The pension papers were completed by the petitioner approximately a month before his retirement. As the petitioner was on deputation, the Chandigarh Administration, where the petitioner was discharging his duties, forwarded full complete pension paper of the petitioner on 23.09.2015 only and by that time, only one month was left before the petitioner was to superannuate. Therefore, it is clear that the pension could not be granted to the petitioner immediately upon his retirement and the fault only lies with the petitioner himself.

From the averments stated above, it is clear that DCRG was approved by the Accountant General Department on 04.02.2016, which is clear from the reply filed on behalf of respondent No.3 as submitted in paragraph 2. Once, the payment was approved in February, 2016, no justification has been given as to why the same was released to the petitioner on 29.09.2016. The delay of eight months have not been explained by the respondents.

As per the settled principle of law settled by the Full Bench of this Court in ***A.S. Randhawa's case (supra)***, where there is a delay in releasing the pensionary benefits and the delay is not explained or the same is unjustified, 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. 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."*

The case of the petitioner is covered from the abovesaid judgment as no explanation has been given by respondent No.2 as to why, once the amount was sanctioned by the competent authority on 24.02.2016, the same was released to the petitioner in November, 2016. For the delay of 8 months, the respondents are liable to pay the interest.

Accordingly, the writ petition is allowed. The petitioner will be entitled for the interest @ 9% per annum from 04.02.2016 onwards till the amount was deposited on 29.09.2016. Let the interest for the said period be calculated by the respondents within a period of two months from today and the amount so calculated will be released to the petitioner within a period of one month thereafter.

(HARSIMRAN SINGH SETHI)
JUDGE

April 03, 2019
harsha

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