IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-4958-2015
Date of decision: - 01.02.2019

Baljinder Kaur

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Vipin Mahajan, Advocate,
Mr. N.K. Verma, Advocate,
Mr. Ankush Verma, Advocate
and Mr. Anup Verma, Advocate
for the petitioner.

Ms. Deepali Puri Sandhu, Additional Advocate General, Pb.

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HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the claim which is being made by the petitioner is for the grant of interest on the delayed release of the pensionary benefits to the petitioner.

The averments made in the writ petition that the petitioner appointed as a JBT Teacher on 31.12.1991. While working as JBT Teacher, she sought voluntary retirement and in this regard the petitioner moved an application on 19.08.2009. Three months notice was given and as there was no rejection of the said request, hence the petitioner stood prematurely retired w.e.f. 16.11.2009 under the Premature Retirement Rules, 1975.

Counsel for the petitioner contends that even though the petitioner retired in November, 2009, the pensionary benefits were released to her starting from the year 2013 onwards till January 2015. Therefore, as there is an inordinate and unexplained delay in the release of her pensionary benefits, the petitioner is entitled for interest on the same keeping in view the settled principle of law settled by this Court in case **A.S. Randhawa** Vs. **State of Punjab and others, 1997(3) SCT 468.**

Upon notice of motion, the respondents have filed the reply.

In the reply, the claim of the petitioner has been contested on the ground that after the petitioner submitted the request of voluntary retirement, her original service book was misplaced. It took the respondents approximately three years to reconstruct the said service book and the same was reconstructed on 16.05.2012. Thereafter, an order was passed by the respondents on 08.01.2013, prematurely retiring the petitioner w.e.f. 16.11.2009.

Counsel for the respondents states that after the passing of the said order on 08.01.2013, case of the pensionary benefits of the petitioner was prepared and the amount was sanctioned starting from June, 2013 onwards till December, 2013. Further, the respondents have stated in the reply that the certain forms were to be submitted by the petitioner, which she failed to submit and therefore, the GPF of the petitioner was released only on 08.01.2015.

Counsel for the respondents states that the delay is attributable to the petitioner only, therefore, she is not entitled for the interest on the delayed payments.

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

It is an admitted case that the petitioner retired w.e.f. 16.11.2009. The loss of the original service book cannot be attributed to the petitioner as the service book was in the possession of the department and in case, the same was misplaced, reconstruction of the same is the responsibility of the administrative department. Further, nothing has been pointed out as to why it took more than three years for the respondents to construct the duplicate service book. The delay in release of the payment is attributed to the department alone for which the petitioner cannot be penalized.

The objections which have been taken by the respondents that the petitioner did not submit the self-declaration and PF 10 Form, when asked in the year 2014, cannot help the respondents to deny the legitimate right to claim the interest by the petitioner.

Further, even without signing those documents, the GPF was also released to the petitioner in January, 2015, therefore, it can be safely presumed that those documents, for which the petitioner was called, were not mandatory in nature so as to withhold the pensionary benefits.

As per the settled principle of law settled by a Full Bench of this Court in **A.S. Randhawa' case (supra),** the amount which has been retained by the respondents and there is a delay in releasing the same, the employee will be entitled to 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 front 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."

Furthermore, in the case of **J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355,** this Court had held that an employee will be entitled for the interest of an amount which has been retained by the respondents without any valid justification. The relevant paragraph of **J.S. Cheema's case (supra)** 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."

A bare perusal of the above would show that where the amount has been retained by the department that too without a valid justification, the employee has been held entitled to the interest.

In the present case, there is no denial by the respondents that the amount remained lying with the respondents till the same was disbursed to the petitioner starting from June, 2013 till January, 2015.

Keeping in view the above, the present writ petition is allowed. The respondents are directed to calculate the interest @ 9% per annum on the delayed payments, which have been made to the petitioner. The interest shall be calculated from the day when the petitioner became entitled for the release of the amount till the actual payment.

Let the calculation be done within a period of two months from the date of receipt of a certified copy of this order and the actual payment shall be released to the petitioner within one month thereafter.

(HARSIMRAN SINGH SETHI)
JUDGE

February 01, 2019
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Whether reasoned/speaking? Yes
Whether reportable? Yes