IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-26796-2017
Date of decision: - 21.08.2019

Pal Singh

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Ranjivan Singh, Advocate
with Ms. Kanika Toor, Advocate
for the petitioner.

Mr. Navdeep Chhabra, Additional Advocate General, Punjab.

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HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the grievance raised by the petitioner is that though he has retired on 30.06.2016, but all the benefits, for which he was entitled for after his retirement, have not been released to him.

At the very outset, counsel for the petitioner very fairly states during the pendency of the writ petition, all the payments have already been released and now the only claim, which survives to be decided in the present writ petition is, as to whether, the petitioner is entitled for the grant of interest on the said delayed release of the pensionary benefits keeping in view the judgment of Full Bench of this Court in **A.S.**

Randhawa Vs. State of Punjab and others, 1997(3) SCT 468.

Counsel for the petitioner further states that all the other prayers, which have been made in the present writ petition, be treated as not pressed, except the grant of interest at this stage.

As per the averments made in the writ petition, petitioner was recruited as a Sweeper-cum-Chowkidar with the respondent-department initially on 89 days basis on 17.10.1983 and he kept on working as such with notional breaks till 27.03.1992, when his services were regularized. Thereafter, on attaining the age of superannuation, petitioner retired on 30.06.2016.

The grievance of the petitioner is that after the retirement, pensionary benefits, for which he was entitled, were not released by the respondents without any valid justification for a period ranging from 2½ years to 3 years.

Counsel for the petitioner argues that there are no proceedings, which were pending against the petitioner at the time of retirement or thereafter, which would have entitled the respondents to withhold the pensionary benefits, but still, the same were not released by the respondents within a reasonable time. After the retirement, petitioner also served the respondents with a legal notice and a representation, but as the pensionary benefits were not being released, he filed the present writ petition seeking a direction to the respondents for releasing the pensionary benefits alongwith interest.

Upon notice of motion, reply has been filed by the respondents.

In the reply, the respondents have submitted that all the payments, for which the petitioner was entitled, have been released by the respondents. It is not disputed by the respondents that leave encashment amounting to ₹1,60,493/- was released to the petitioner on 15.11.2018; General Provident Fund amounting to ₹57,296/- was also released to the petitioner on 15.11.2018; death-cum-retrirement gratuity amounting to ₹3,26,547/- was released to the petitioner on 03.05.2019 and petitioner has been paid the arrears of pension amounting to ₹4,84,533/- on 03.05.2019.

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

The facts which have been narrated hereinbefore are not disputed. It is not disputed by the respondents either in the written statement or during the course of hearing that there were no proceedings pending against the petitioner, which would have entitled the respondents to withhold the pensionary benefits of the petitioner. Further, no justification has been given by the respondents in the reply as to why once the petitioner retired on 30.06.2016, the payments were made only starting from November, 2018 onwards till May, 2019.

In the absence of any justifiable reason, it can be safely said that the delay, which has been occurred in the release of the retiral benefits, is unjustified.

A Full Bench of this Court in **A.S. Randhawa's case (supra)** held that where the retiral benefits of an employee have been released after undue delay and no justification has been given for the said delay, employee will be entitled for interest on the delayed release of the pensionary benefits. The relevant paragraph of 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."

Not only this, in the case of **J.S. Cheema** **Vs.** **State of Haryana, 2014(13) RCR (Civil) 355,** a Co-ordinate Bench of this Court held that an employee will be entitled for the interest on 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 reproduced judgments would show that where the amount has been retained by the department and that too without any valid justification, the employee has been held entitled to the interest.

The case of the petitioner is squarely covered by the above reproduced judgments as there is no valid justification given by the respondent-department for the delay, which has occurred for the release of the pensionary benefits either in the written statement or even during the course of hearing and therefore, the petitioner is held entitled for the interest on the delayed release of the pensionary benefits @ 9% per annum.

In view of 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 were released to him.

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 a period of one month thereafter.

Present writ petition is allowed in above terms.

(HARSIMRAN SINGH SETHI)
August 21, 2019 **JUDGE**
naresh.k

Whether reasoned/speaking? Yes
Whether reportable? Yes