IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

(274) **CWP-27865-2017**
Date of Decision: October 16, 2019

Umed Singh **.. Petitioner**

Versus

State of Haryana and others **.. Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rohit Jindal, Advocate, for
Mr. Sunil K. Nehra, Advocate, for the petitioner.

Ms. Safia Gupta, AAG, Haryana.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the claim of the petitioner is that though the petitioner retired from the post of Canal Patwari on 31.07.2014 but his retiral benefits such as gratuity, commutation of pension and leave encashment were not released within a reasonable time by the respondents without any valid justification.

Learned counsel for the petitioner argues that the gratuity was released to the petitioner on 17.08.2017, leave encashment was released to him on 17.11.2016 and commutation of pension was released to the petitioner on 24.01.2018 and therefore, petitioner is entitled for interest on the delayed release of the pensionary benefits 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***.

Learned counsel for the respondents, on the other hand, states that on the date when the petitioner retired, there was a complaint case pending against the petitioner registered under Sections 307, 323, 325 and 34 of the IPC before the competent Court of law and therefore, the benefits of gratuity, commutation of pension and leave encashment were not released to him and the withholding of the said benefits was well within the jurisdiction of the department.

Learned counsel for the respondents further argues that after the petitioner was acquitted by the competent Court of law in the said complaint case on 22.03.2016, the benefits were released to him and therefore, no grievance can be raised by the petitioner in this regard.

Learned counsel for the petitioner argues that after the petitioner was acquitted by the competent Court of law on 22.03.2016, the respondents were bound to release the retiral benefits, which they had withheld, within a reasonable time thereafter, which was not done. Learned counsel for the petitioner argues that though the petitioner was acquitted in the said complaint case on 22.03.2016, the retiral benefits of the petitioner were released from November, 2016 onwards till January, 2018 and therefore, there is an inordinate delay in releasing the benefits of gratuity, leave encashment and commutation of pension and therefore, case of the petitioner will be entitled for the grant of interest on the delayed payments starting from the date when the petitioner was acquitted by the competent Court of law on 22.03.2016, keeping in view the settled principle of law.

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

No fault can be found in the action of the respondents in withholding the gratuity, leave encashment and commutation of pension at the time when the petitioner retired from service on 31.07.2014, as proceedings were pending against the petitioner, which entitle the respondents to withhold the retiral benefits. But after the petitioner was acquitted by the competent Court of law on 22.03.2016, there was no impediment in the release of the pensionary benefits. Once the hurdle of proceedings before the competent Court of law cease to exist on 22.03.2016, respondents were bound to release the retiral benefits within a reasonable time thereafter.

A Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab, 1997(3) S.C.T. 468,*** has held that reasonable time within which the benefits are to be released to an employee, is two months and after the said date, an employee will be entitled for interest so as to compensate the delay. 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.*"

Not only this, a Coordinate Bench of this Court while deciding ***J.S. Cheema Vs. State of Haryana and others, 2014 (1) S.C.T. 782***, has held that in case an amount for which the employee is entitled for, has been retained and used by the department, the employee will be entitled for the interest on the same. 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.*"

Learned counsel for the respondents has not been able to justify as to why even after the case pending against the petitioner, due to which the pensionary benefits of the petitioner were withheld came to an end on 22.03.2016, the benefits were not released within a reasonable time thereafter.

In the absence of any explanation, it is presumed that there was no valid justification with the respondents to withhold the pensionary benefits of the petitioner after 22.03.2016.

In the present writ petition, the delay in releasing the pensionary benefits is more than two months as fixed by the full Bench of this Court in ***A.S. Randhawa's case (supra)*** and therefore, petitioner will be entitled for interest on the delayed payments from 01.06.2016 onwards.

Keeping in view the aforementioned facts and law, the present writ petition is allowed qua the claim of interest to the petitioner on the delayed release of the pensionary benefits. Petitioner will be entitled for interest on the delayed payments starting from 01.06.2016 onwards till the same were actually release to the petitioner by the respondents. Let the calculation of the interest be done by the respondents within a period of two months from the receipt of certified copy of this order and the amount so calculated will be paid to the petitioner within one month thereafter.

The writ petition is allowed in above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

October 16, 2019
harsha

Whether speaking/reasoned: Yes
Whether reportable: Yes