IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-28810-2017
Date of decision: - 30.04.2019

Indraj and others
....Petitioners

Versus

State of Punjab and others
.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Peeush Gagneja, Advocate,
for the petitioners.

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

Mr. SPS Tinna, Advocate,
for respondent No.4.

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HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the grievance of the petitioners is that though they had retired from service on 31.05.2015, 30.04.2014 and 30.04.2008 respectively, but the release of their pensionary benefits were delayed by the respondents without any valid justification and therefore, they are entitled for interest on the delayed release of their pensionary benefits keeping in view the law laid down by this Court in **A.S. Randhawa** Vs. **State of Punjab and others**, **1997(3) SCT 468.**

The facts as mentioned in the writ petition are that petitioner No.1 retired as an Oil Man from the respondent-Municipal Council

Abohar on 31.05.2015. Similarly, petitioner No.2, who working as a Pump Operator with the same Municipal Council, Abohar, retired on 30.04.2014 and petitioner No.3, working as a driver with the Municipal Council, Abohar, retired on 30.04.2008.

The grievance of the petitioners is that without there being any valid justification, their pensionary benefits were not released and they had to approach this Court for claiming the retiral benefits. Petitioner No.1 had filed CWP No.21895 of 2015 claiming the retiral benefits; petitioner No.2 had filed CWP No.10380 of 2014 and petitioner No.3 also filed CWP No.22570 of 2015. After the writ petitions were filed, the pensionary benefits of the petitioners were released.

Counsel for the petitioners states that in the case of petitioner No.1, though he retired on 31.05.2015, his pensionary benefits alongwith monthly pension were released only on 09.08.2016. In the case of petitioner no.2, who retired on 30.04.2014, he was paid the benefits on 05.06.2015 and petitioner No.3, who retired on 30.04.2008, his benefits were released on 16.03.2009 and therefore, as there is a considerable delay in the release of the pensionary benefits and the delay is without any valid justification, hence all the petitioners are entitled for interest on the said delayed payments.

Upon notice of motion, reply on behalf of respondents No.1 to 3 has been filed, but no reply has been filed on behalf of respondent No.4.

In the reply, the averments as noticed above have been admitted by the respondents. In the reply, it has been stated that once the benefits have already been released to the petitioners, no grievance of the petitioners survives and the present petition be disposed of as having been rendered infructuous. With regard to admission of facts, the averments of the reply are as under: -

> “3. That it is humbly submitted that office of the deponent is concerned only with the sanction & payment of pension. That the deponent respectfully submits that the petitioner No.1 namely Sh. Indraj retired as Oil Man from the office of respondent no.4 on 31.05.2015 and the incomplete pension case of the petitioner was sent by the office of Municipal Council, Abohar and the same was received in the office of respondent no.3 on 30.10.2015. The answering respondent has written letter vide letter no.DDLG-Pen-18/2985 dated 26.02.2016 to the respondent No.4 to remove the discrepancies. The pension of the petitioner was sanctioned on dated 25.07.2016 after removal of the discrepancies on 06.06.2016 by the office of Municipal Council, Abohar. The arrears of pension for the period from 01.06.2015 to 30.06.2016 amounting to Rs.2,17,854/- has been paid on 09.08.2016 alongwith monthly pension of July 2016 by respondent No.3. Copy of letter dated 26.02.2016 is annexed as Annexure R-1.
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> 4. That the petitioner No.2 namely Sh. Gopi Ram retired as Pump Operator from the office of respondent No.4 on 30.04.2014 and the pension case of the petitioner was sent by the office of Municipal Council, Abohar and the same was received in the office of respondent No.3 on 05.02.2015. The pension of the petitioner has been sanctioned on 27.03.2015 and the arrears of pension for the period from 01.05.2014 to 28.02.2015 amounting to Rs.2,01,000/- has been paid on 05.06.2015 alongwith monthly pension of May 2015 by respondent No.3.
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> 5. That the petitioner No.3 namely Sh. Rameshwar Dass retired Driver from the office of respondent No.4 on 30.04.2008 and the pension case of the petitioner was sent by the office of Municipal Council, Abohar and the same was received in the office of

> respondent no.3 on 14.06.2008. The pension of the petitioner has been sanctioned on 03.02.2009 and the arrears of pension for the period from 01.05.2008 to 30.11.2008 amounting to Rs.47,131/- and commuted value amounting Rs.2,29,952/-. Total amounting Rs.2,77,083/- have been paid vide letter no. DDLG-Pen-09/325 dated 16.03.2009 by respondent No.3."

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

In view of the contents of the reply reproduced hereinabove, it is clear that there was a considerable delay in the release of the pensionary benefits of the petitioners. No valid justification has been given by the respondents in their reply as to why, the benefits for which the petitioners were entitled immediately on their retirement, were not released within a reasonable time. In the absence of any explanation, it can be safely said that the pensionary benefits of the petitioners were delayed without any valid justification or a cogent reason. An employee is entitled for the pensionary benefits immediately upon his retirement or within a reasonable time so that a retired employee can lead a dignified life as the only source to survive for a retired employee is on the retiral benefits which he/she receive after retirement. In the event of non-release of the same and that too without any valid justification, it amounts to deny a retired employee his/her right to life as granted under Article 21 of the Constitution of India.

As per the settled principle of law settled by a Full Bench of this Court in **A.S. Randhawa's case (supra),** the amount which has been retained by the respondents and that too without any justifiable reason, 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."

In the case of **J.S. Cheema** Vs. **State of Haryana, 2014(13) RCR (Civil) 355,** a Co-ordinate Bench of this Court had 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."

The case of the petitioners is squarely covered by the above-said judgments and therefore, they are held entitled for interest @ 9% per annum from the date the payments became due till the same were released by the respondents.

Let the calculation of the amount of interest be done within a period of two months from the date of receipt of a certified copy of this order and the actual amount, so calculated, shall be released to the petitioners within one month thereafter.

Present writ petition stands disposed of in the above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

April 30, 2019
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Whether reasoned/speaking?	Yes
Whether reportable?	Yes