

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-7666-2016

Date of decision: - 08.07.2019

Sham Lal

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Rajeev Dev Sharma, Advocate,
for the petitioner.

Mr. Vikas Mohan Gupta, Addl. Advocate General, Punjab.

Mr. Neeraj Sharma, Advocate
for respondents No.3 and 4.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the grievance which is being raised by the petitioner is that retiral benefits of the petitioner for which he became entitled for after his retirement on 31.12.2014, were not being released without any valid justification and the prayer has been made for issuance of a direction to the respondents to release the pensionary benefits alongwith interest.

As per the facts mentioned in the writ petition, petitioner was appointed as a Pump Driver in Municipal Council (now Municipal Corporation), Pathankot on 25.07.1985. He kept on working as such when he attained the age of superannuation and retired on 31.12.2014. It

is the case of the petitioner that there was no impediment in the release of the pensionary benefits of the petitioner after he retired as there were no proceedings which were pending against him which would have entitled the respondents to withhold the pensionary benefits.

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

In the reply, the claim of the petitioner that there was no impediment in the release of the pensionary benefits has been admitted and it has only been stated that petitioner had filed a CWP No.26602 of 2014 seeking extension in service and therefore, the benefits were not released so as to await the outcome of the said writ petition. Further, it has been stated that all the benefits for which the petitioner was entitled for have already been released after the filing of the present writ petition and therefore, the writ petition has been rendered infructuous. The relevant paragraph of the reply is as under: -

“That in reply to para No.3 of the writ petition it is submitted that the petitioner had earlier filed CWP No.26602 of 2014 seeking one year extension in service before the Hon’ble Punjab and Haryana High Court Chandigarh. The prayer for extension was not considered by this Hon’ble Court, petitioner thereafter withdrew the abovesaid writ petition on 14.12.2015. After the retirement of petitioner on 31.12.2014 he was entitled for retiral dues of ₹4,41,120/- on account of leave encashment, ₹5,86,025/- on account of gratuity i.e. total amount of ₹10,27,145/- and ₹5,11,481/- on account of provident fund. The Municipal Corporation Pathankot has already paid ₹5,11,485/- on account of provident fund to the petitioner vide Ch. No.838220 dated 06.12.2015 and thereafter when the petitioner withdrew his writ petition on 14.12.2015, the Municipal Corporation Pathankot released the part payment of ₹1,00,000/- vide Ch. No.210308 dated 17.02.2016 and later on

₹1,00,000/- vide Ch. No.212965 dated 17.03.2016 to the petitioner from the total amount of ₹10,27,145/-. The remaining amount of ₹8,27,145/- on account of retiral dues has also been paid to the petitioner vide Ch. No.213011 dated 03.06.2016. Since the petitioner had filed earlier CWP No.26602 of 2014 for extension in service, therefore, the retiral dues could not be granted to the petitioner. All the amount on account of retiral dues like ₹5,11,481/- on account of provident fund and ₹10,27,145/- on account of leave encashment gratuity has been paid to the petitioner as explained above. No retiral amount is due towards the petitioner.”

Counsel for the petitioner argues that the benefits for which the petitioner was entitled for in January, 2015 have been released in June, 2016, therefore, he is entitled for interest on the said detailed release of the pensionary benefits.

Counsel for the respondents reiterated the stand that release of the benefits was delayed only due to the act of the petitioner, wherein he had filed a writ petition seeking extension in service and the respondents in order to await the decision of the said writ petition, did not release these benefits.

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

It is an admitted case that on 31.12.2014 when the petitioner retired there was no impediment in the release of the pensionary benefits of the petitioner. The action of the respondents in withholding the said benefits due to the pendency of the writ petition, which the petitioner had filed for seeking extension in service, has no connection with the release of the pensionary benefits. Once, the respondents had retired the

petitioner from service, it is incumbent upon the respondents to release the pensionary benefits to the petitioner within a reasonable time.

As per the settled principle of law settled by a Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468**, 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 retiree 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. 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 petitioner is squarely covered by the abovesaid decisions. It has been admitted by the respondents that petitioner was entitled for a sum of ₹10,27,145/- on account of leave encashment and gratuity and further, a sum of ₹5,11,485/- on account of provident fund. The said amount were only released from December, 2016 onwards. The petitioner was paid a sum of ₹1,00,000/- on 17.02.2016 and thereafter a sum of ₹1,00,000/- on 17.03.2016. The remaining amount out of ₹10,27,145 i.e. ₹8,27,145/- was paid to the petitioner on 03.06.2016. The amount of provident fund was released to the petitioner on 06.12.2015 and therefore, it can be proved that there is a delay of more than one year in making the payment to the petitioner on account of his retiral benefits. The justification which has been given by the respondents is not at all correct and cannot be treated as a valid justification for retaining the amount of retiral benefits once the petitioner had retired.

In view of the above, the writ petition is allowed. The claim of the petitioner for the grant of interest is allowed and the petitioner will be held entitled for the interest @ 9% per annum from the date the

amount became due till the same was 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 petitioner within one month thereafter.

Present writ petition stands disposed of in the above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

July 08, 2019
naresh.k

Whether reasoned/speaking?	Yes
Whether reportable?	Yes