IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

(224) **CWP-28930-2017**
Date of Decision: August 30, 2019

Saroj Kumari and others **.. Petitioners**

Versus

State of Punjab and others **.. Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vikas Chatrath, Advocate,
Ms. Anureet Budwal, Advocate, and
Ms. Jasleen Kaur, Advocate, for the petitioners.

Mr. H.S. Sitta, AAG, Punjab.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the grievance which is being raised by the petitioners is that the release of retiral benefits of the petitioners were delayed beyond the reasonable time as fixed by the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab, 1997(3) S.C.T. 468,*** and the delay, according to the respondents was only due to the procedure to be followed for the release of the pensionary benefits, which ground is not a valid ground according to the settled principle of law, therefore, petitioners are entitled for the grant of interest on the delayed payments.

The facts, as mentioned in the writ petition are that petitioners No. 1 and 2 retired on 31.01.2017 whereas petitioner No.3 retired on 30.06.2015. At the time of retirement and thereafter, there were no proceedings ever initiated against the petitioners so as to entitle the respondents to withhold any of the pensionary benefits but the release of the pensionary benefits was delayed by the respondents and even at the time of filing of the writ petition, certain benefits in respect of the service rendered by the petitioners such as arrears of dearness allowances were yet to be released to the petitioners.

Upon notice of motion, the respondents have filed reply to the writ petition wherein, it has been stated that the Accountant General, Punjab had raised certain objections when the case of the petitioners was sent for the approval of the pension and other pensionary benefits and some time was taken by the department for clearing those objections and an unintentional delay due to the procedure has occurred in the release of the benefits to the petitioners. It has been submitted by the respondents that certain payments are still pending to be paid to the petitioners i.e. arrears of dearness allowance even at the time of filing of the written statement but other payments such as DCRG and leave encashment and GIS have already been released to the petitioners and the details of the same have been mentioned in the written statement. The relevant paragraph of the reply is as under:-

> " *2. That the pension and commutatin of pension have been released to the petitioner at the belated stage. The authority concerned is Accountant General, Punjab. As regards to releasing pension and commutation. It is therefore, Accountant General, Punjab is to be impleaded as a necessary party in present writ petition and the delay of payments are also due at the end of Treasury Bathinda because of payments are finally released by the Treasury Bathinda, so they must be impleaded as a party in present writ petition and the delay of payments are also due at the end of the Treasury Bathinda because all payments are finally released by the Treasury Bathinda, so they must be impleaded as the party in present writ petition."*

Learned counsel for the petitioners states that the arrears of dearness allowance was ultimately released to the petitioners in August, 2018.

Learned counsel for the respondents states that as the delay was not intentional and it was merely procedural, therefore, petitioners will not be entitled for any interest on the said delayed payments.

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

In fact, the respondents have themselves admitted that there is a delay in release of the pensionary benefits of the petitioners. Petitioners No. 1 and 2 retired on 31.01.2017 and the gratuity payment was made to them on 31.10.2017 and leave encashment was paid to them on 17.06.2017. The arrears of the dearness allowance was released to the petitioners in August, 2018. In respect of petitioner No.3, who retired on 30.06.2015, the gratuity was paid on 05.12.2016 and leave encashment was paid on 03.10.2015. The commutation of pension was also released to petitioner No.3 in December, 2016. Further even the pension alongwith arrears was paid to him on 30.09.2016.

The issue of grant of interest has been dealt with by the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab, 1997(3) S.C.T. 468.*** The Full Bench of this Court has held that an employee is entitled for the release of the pensionary benefits within a reasonable time and the reasonable time as fixed by the Full Bench is two months from the retirement date and in case the retiral benefits are not released within reasonable time as fixed by the Full Bench, employee has been held entitled for the interest on the said delayed payments. 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."

In the present writ petition, there is a delay of more than two months in the release of the pensionary benefits, which is clear from the facts noticed above.

Learned counsel for the respondents has not been able to differentiate on any ground that the case of the petitioners is not covered by the judgment in ***A.S. Randhawa's case (supra)***.

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."*

Further, the only objection which has been taken by the respondents is that though there was a delay but the same was not intentional or willful but was procedural, therefore, the petitioners should not be paid interest and even if the interest is to be paid, the same should be paid by the Treasury who did not release the payment. This question has also been settled by this Court while deciding ***CWP No.2859 of 2018 and other connected cases, decided on 07.03.2019 titled Sajjan Singh Vs. State of Punjab and others***. This Court has held that even if the delay is not intentional or willful but was procedural, the same cannot cause prejudice to an employee as the retired employee has no other source of income but to survive on the release of the pensionary benefits in order to live a dignified life. Once, an employee is forced to approach this Court for the release of the pensionary benefits, he becomes entitled for interest under any circumstances. The relevant paragraph of the said judgment is as under:-

"*8. In the present case, the only objection taken is that the delay was not intentional or willful but was procedural. This ground is not good enough to save the interest. Once the Department knows that the employee is going to retire, all efforts should have been made to ensure that the payments are made at the earliest. A retired employee who has no other source of income is totally dependent upon the benefits which the employee gets and in case those benefits are not released in time, the employee is unable to live with dignity. Further, once the amount has been used by the respondents to their benefits as the same was lying with them while they were trying to complete the process of the release, this Court has already held that in these circumstances, the employee will be entitled* *for interest."*

Even the objection which has been raised by the respondents that the Administrative Department had sent the bills to the Treasury but the payment was delayed by the Treasury, cannot come to the rescue of the respondents. The Treasury is only acting as an agent of the Administrative Department and the payment is being released by the Treasury on behalf of the Administrative Department only and therefore, any default on the part of the Treasury, which is acting as an agent, will bind the Administrative Department, who was liable to release the pensionary benefits of the petitioners in a reasonable time and therefore, this objection as raised by the respondents cannot come to the rescue of the Administrative Department in order to deny the interest to the petitioners.

Therefore, the present writ petition is allowed. Petitioners are held entitled for interest on the delayed release of the pensionary benefits and other amount such as arrears of dearness allowance at the rate of 9% per annum from the date the payment became due till the release of the same by the respondents. Let the interest under this order be calculated 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 released to the petitioners within a period of one month thereafter.

The writ petition is allowed in above terms.

(HARSIMRAN SINGH SETHI)
August 30, 2019 **JUDGE**
harsha

Whether speaking/reasoned: Yes
Whether reportable: Yes