IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.2859 of 2018 and connected cases
DATE OF DECISION:07.03.2019

Sajjan Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CWP No.215 of 2018

Mihan Singh, Principal (Retd.)

... Petitioner

Versus

State of Punjab and others

... Respondents

CWP No.234 of 2018

Santosh Kumar

... Petitioner

Versus

State of Punjab and another

... Respondents

CWP No.926 of 2018

Roop Kumar

... Petitioner

Versus

State of Punjab and others ... Respondents

CWP No.4328 of 2018

Jaswinder Kaur

... Petitioner

Versus

State of Punjab and others

... Respondents

CWP No.1689 of 2018

Sheela Devi

... Petitioner

Versus

State of Punjab and others

... Respondents

CWP No.463 of 2018

Kashmiri Devi

... Petitioner

Versus

State of Punjab and others

... Respondents

CWP No.4319 of 2018

Hakam Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CWP No.4027 of 2018

Amarjit Kaur

... Petitioner

Versus

State of Punjab and others

... Respondents

CWP No.3155 of 2018

Puran Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CWP No.3149 of 2018

Sharda Devi

... Petitioner

Versus

State of Punjab and others

... Respondents

CWP No.2614 of 2018

Nirmala Devi

... Petitioner

Versus

State of Punjab and others

... Respondents

CWP No.419 of 2018

Veena Rani

... Petitioner

Versus

Punjab State Power Corporation Limited and others

... Respondents

CWP No.2606 of 2018

Manjeet Singh

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vikas Chatrath, Advocate,
Mr. Arnav Kumar Sood, Advocate,
Mr. R.K. Girdhar, Advocate,
Mr. Surinder Thakur, Advocate,
Mr.Aman Dhir, Advocate,
Mr. Naveen Batra, Advocate,
Mr. Rajat Garg, Advocate,
Mr. G.P. Vashisht, Advocate,
Mr. Atul Goyal, Advocate,
Mr. Sunny Singla, Advocate,
Mr. Gurnam Singh, Advocate,
Mr. H.S. Maan, Advocate and
Mr. Vikas Bali, Advocate
for the petitioners.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

Mr. P.P.S. Thethi, Advocate
for respondents No.1 to 4 in CWP No.419 of 2018.

Mr. Surinder Pal Singh Tinna, Advocate
for respondent No.4 in CWP No.3155 of 2018.

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HARSIMRAN SINGH SETHI, J. (ORAL)

By this order, the above mentioned writ petitions are being disposed of as all the writ petitions involve the same questions of law to the effect that whether the employee will be entitled for interest on the delayed payments of the pensionary benefits. For the sake of convenience, the facts are being extracted from CWP No.2859 of 2018.

In this case, the petitioner retired on 30.08.2016 and according to the averments made in the writ petition, the gratuity was paid to him on 28.11.2017 and the General Provident Fund amount was released on 22.02.2017.

Counsel for the petitioner states that once there is delay in releasing the amount, the petitioner is entitled for interest on the delayed release of the payment.

Upon notice of motion, reply has been filed by the respondents and it has been admitted that the petitioner retired on 30.08.2016 whereas the amount was released much after the said date and the delay has been attributed as a procedural delay, which is not intentional or willful and, therefore, it is being stated that the petitioner is not entitled for interest on the delayed release of the payments.

I have heard the counsel for the parties and have gone through the record of the case.

It is a settled principle of law rendered by the Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab 1997(3) SCT 468** that if there is delay in releasing the pensionary benefits to the employee, the employee will be entitled for interest. As per the judgment of the Full Bench if there is no valid justification with the respondents to withhold the amount, the amount so released after the retirement after undue and explained delay, the employee will be entitled for interest. The relevant para 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. 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, this Court while deciding **J S Cheema Vs. State of Haryana and others, 2014(13) RCR (Civil) 355** also held that once the amount has been retained, the employee will become entitled for the grant of interest. The relevant para of the said order 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 laying 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."

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.

In CWP Nos.419 and 926 of 2018, the only reason given by the respondents is that there is no Rule to give the interest on the delayed payments. The said objection is not at all permissible for the reason that once it is a settled principle of law that the employee will be entitled for interest on the delayed payments, no Rule is required.

Further, there is no Rule even with the respondents to state that the amount for which a retired employee is entitled for can be delayed without any valid justification. Reply on behalf of respondents No.1 to 4 in CWP No.419 of 2018 has been filed in Court today. The same is taken on record.

In CWP No.2606 of 2018, the reason for not giving the interest is that there was a financial crunch with the respondents and, therefore, due to said financial crunch, the payment to the employees could not be released immediately. The said reason is also not a valid ground. A Division Bench of this Court in **Ram Karan Vs. Managing Director, Pepsu Road Transport Corporation and another,** 2005(3) PLR 580 has held that the financial crunch is no ground to retain the pensionary benefits to an employee. The relevant para of the division Bench judgment of this Court is as under:

> *"6... Much was argued on behalf of the Union and the Wakf Boards that their financial position was not such that they can meet the obligations of paying the Imams as they arc being paid in the State of Punjab. It was also urged that the number of mosques is so large that it would entail heavy expenditure which the Boards of different States would not be able to bear. We do not find any correlation between the two. Financial difficulties of the institution cannot be above the fundamental right of a citizen. If the Boards have been entrusted with the responsibility of supervising and administering the Wakf then it is their duty to harness resources to pay those persons who perform the most important duty namely of leading community prayer in a mosque the very purpose for which it is created."*

Therefore, the reason given in the reply denying the interest is contrary to the settled principle of law and the same cannot be held to be a valid reason to deny the interest.

No other justification has been given by the respondents to deny the interest. The respondents have not been able to point out any other valid justification to withhold the amount in other cases also which are being disposed of in the present writ petition. In the absence of any valid justification, except as already noticed above, , the petitioners are found entitled for interest @ 9% per annum from the date the said amount became due till the actual disbursement of the same. Let the interest be calculated within a period of two months from the date of receipt of a certified copy of this order and the actual payment of the calculated amount be released to him within a period of one month thereafter.

The writ petitons stand allowed in the above terms.

March 07, 2019
jt **(HARSIMRAN SINGH SETHI)**
JUDGE

Whether speaking/reasoned: Yes / No
Whether reportable : Yes / No