IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.5276 of 2017
DATE OF DECISION:14.01.2019

Jagdeep Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sanjeev Kumar Arora, Advocate for the petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

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HARSIMRAN SINGH SETHI, J. (ORAL)

In the present petition, the claim of the petitioner is for the grant of interest on the delayed payments. As per the averments made in the writ petition, the petitioner joined as Constable in police department of State of Punjab on 10.09.1982. The petitioner sought voluntary retirement and retired as Head Constable on 30.04.2005. After the voluntary retirement, the petitioner was paid all the dues for which he was entitled for.

As per the averments made in the writ petition, the petitioner claimed that under Rule 4 of the Punjab Civil Services (Premature Retirement) Rules, 1975 (for short 'the 1975 Rules'), the petitioner is entitled for adding five years of service to his credit. In this regard, the petitioner filed a representation before the respondents. The representation was considered by the respondents and the pension of the petitioner was revised from ₹3048/- to ₹3725/- w.e.f. 01.05.2005 and the petitioner was granted the gratuity of ₹144788/- instead of ₹118463/-. Ultimately, the petitioner was paid a sum of ₹188920/- on account of the said benefit on 31.05.2016. In view of the above fact, a sum of ₹26325/- was also paid to the petitioner as revised gratuity on 31.08.2016.

Counsel for the petitioner contends that the petitioner was wrongly denied this benefit at the time when the petitioner retired. The petitioner took voluntary retirement w.e.f. 30.04.2005 and, therefore, as there was a default on the part of the respondents to pay the petitioner pensionary benefits as per his entitlement, the petitioner is entitled for the interest on the said payment which was actually released to him in August, 2016.

Upon notice of motion, the respondents have filed the reply and admitted that the petitioner was entitled for the benefit under Rule 4 of the 1975 Rules for adding five years of service. It has been further contended that the said benefit has already been released to the petitioner after considering his representation. It has been mentioned that the petitioner should have approached the Government for the grant of weightage of five years and as there was no representation made by him and the petitioner slept over the matter for 11 years, no interest can be granted.

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

From the pleadings above, it is clear that the respondents themselves have admitted that the petitioner was entitled for the benefit of weightage of five years as envisaged under Rule 4 of the 1975 Rules. This benefit has also been extended to the petitioner in the year 2016. It is incumbent upon the respondents themselves to calculate the pensionary benefits of an employee as per Rules. Once premature retirement was granted by the respondents to the petitioner, it was incumbent upon the respondents to grant all the benefits for which the petitioner would have become entitled for under the said Rules. There is no need of the petitioner to ask for the same.

As there was a delay on the part of the respondents to pay the petitioner the dues, of which he was entitled for on 30.04.2005 and the same was only paid to him on 31.05.2016 and 07.09.2016, there is a delay in the release of the same. As per the Full Bench judgment of this Court in **A.S. Randhawa Vs. State of Punjab, 1997(3) SCT 468**, an amount which has been retained by the respondents which is due to an employee and the same has been released after undue and unjustified delay, the employee will become entitled for interest. The relevant portion of the judement of the Full Bench 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."*

In view of the above, the claim of the petitioner is allowed. The respondents shall calculate the interest @ 9% per annum from the date the amount became due i.e. 30.04.2005 till the same was released. Let the calculation of interest be done by the respondents within a period of two months from the date of receipt of a certified copy of this order and the actual payment shall be disbursed to the petitioner within a period of one month thereafter.

The writ petition stands allowed in the abovesaid terms.

January 14, 2019
jt **(HARSIMRAN SINGH SETHI)**
JUDGE

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