233 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.3083 of 2018 (O&M)
Date of decision : December 18, 2019

Umed Singh .... **Petitioner**

Versus

Chairman, Punjab State Transmission Corporation Limited and another .... **Respondents**

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Puneet Kumar Bansal, Advocate for the petitioner.

Mr. Vikrant Sharma, Advocate for the respondents.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present writ petition, grievance, which is being raised by the petitioner is that the pensionary benefits of the petitioner were not released in his favour within a reasonable time after his retirement on 31.12.2016 and therefore, the petitioner be granted interest on the delayed release of his pensionary benefits.

The facts, which have been stated in the present writ petition are that the petitioner, who was working as Assistant Lineman, retired from service on attaining the age of superannuation on 31.12.2016. It is the specific case of the petitioner that at the time of the retirement, there was no impediment in releasing the pensionary benefits of the petitioner as there were no proceedings pending against the petitioner either departmental or before any competent Court of law, which would entitle the respondents to withhold the pensionary benefits of the petitioner.

Prayer of the petitioner is that keeping in view the settled principle of law, the petitioner is entitled for the interest on the delayed release of his pensionary benefits.

Upon notice of motion, respondents have filed the reply. In the reply, the respondents have stated that the delay in releasing the pensionary benefits is there but the said delay is reasonable and was only due to the administrative exigencies and therefore, the petitioner is not entitled for the interest as delay was bonafide and not intentional. Further, the reason given by the respondents is that the petitioner had participated in a strike on 02.09.2016 and the period of the strike was regularized by the respondents on 02.02.2017, after which the payments were made. Therefore, the delay was reasonable, which would not entitle the petitioner for grant of interest. Further stand is that, there were some audit objections which are being taken by the respondents are only attributed to the respondents if any laxity was there in regularizing the strike period of the petitioner or removing the objections, the petitioner can only be prejudiced for the same.

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

Certain facts, which are admitted, are as under:

1. The petitioner retired from the service on attaining the age of superannuation on 31.12.2016.
2. There were no proceedings pending against the petitioner, which would have entitled the respondents to withhold the pensionary benefits of the petitioner.
3. The period of suspension was regularized by the respondents themselves on 02.02.2017 i.e. within a reasonable time of the retirement.
4. The payment of the provident funds was released to the petitioner in June, 2017, the pension was released to the petitioner on 01.08.2018 i.e. after a period of one

> year and seven months of the retirement i.e. 31.12.2016, amount of the gratuity and commuted value of pension were released on 21.08.2018. Only the leave encashment was released to the petitioner in February 2017.

Even if, the said argument is allowed in favour of the respondents, then also, the payments should have been made within a reasonable time after the regularization of the strike period of the petitioner.

The question of law in respect of grant of interest on the delayed payment of retiral benefits has already been settled by the Full Bench of this Court in ***"A.S. Randhawa Vs. State of Punjab and others,1997(3) SCT 468"***, wherein, it has been held that the amount for which an employee becomes entitled as retiral benefits is to be released within a reasonable time after retirement and reasonable time fixed by the Full Bench of this Court is two months from the date of retirement and in case, retiral benefits have been retained by the respondents beyond the said period of two months and that too without any justifiable reason, the employee will be entitled for 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 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 present case, even if two months time is to be considered from the date of the regularization of the strike period i.e. 02.02.2017, then also, the payments were released to the petitioner after the delay of the reasonable time except the payment of leave encashment. Amount of the Provident funds was released in June, 2017, which is beyond two months even after 02.02.2017. Commutation of pension and gratuity were paid in August, 2018, which is one year and eight months after the retirement, which in any way cannot be treated as reasonable time.

A Co-ordinate Bench of this Court in "***J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355"*,** has held that an employee will be entitled for the interest on an amount, which has been retained and used 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."*

In the present case, the delay is beyond the reasonable time as fixed by the Full Bench of this Court in **A.S. Randhawa's case (supra)**, therefore, the petitioner needs to be compensated by award of interest on the delayed payments. Further, there was no valid justification in retaining the amount and therefore, even as per the **J.S. Cheema's case (supra)**, case of the petitioner is covered in his favour.

In view of the above, there is an inordinate delay in the release of the pensionary benefits except the leave encashment and therefore, the petitioner will be entitled for the interest @ 9% per annum from the date 01.04.2017 onwards till the release of the same.

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 allowed in the above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

December 18, 2019
sarita
Whether speaking / reasoned Yes
Whether Reportable: Yes