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

**CWP No. 5651 of 2017**
**Date of Decision : 04.02.2019**

**Warjinder Singh**

**...Petitioner**

**Versus**

**Punjab State Power Corporation Limited and others**

**...Respondents**

***CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI***

Present: Mr. J.S. Jaidka, Advocate for the petitioner.

Mr. M.K. Dogra, Advocate the respondents.

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***Harsimran Singh Sethi, J.(Oral)***

In the present writ petition, the grievance, which has been raised by the petitioner is that he is entitled for the interest on the delayed payments of his retiral benefits.

As per the averments made in the writ petition, the petitioner retired as Sub Divisional Officer from the Punjab State Board Corporation Limited on 31.07.2014. At the time when he retired from the said service, there was a charge-sheet pending against him and also an FIR No. 12 dated 12.12.2012 under the Prevention of Corruption Act, 1988 (in short 'the Act') was pending.

Learned counsel for the petitioner states that the charge-sheet was decided on 27.01.2015 by the respondents imposing penalty of 10% cut in pension of the petitioner for five years. In respect of the FIR, the petitioner was acquitted by the trial Court vide judgment dated 28.05.2015 (Annexure P-1). Learned counsel further states that after 28.05.2015 i.e. his acquittal, there was no valid justification with the respondents to withhold the pensionary benefits and as the payment of pensionary benefits have been delayed, the petitioner is entitled for interest on the said amount.

Upon notice of motion, the respondents have appeared and filed the reply. In the reply, claim of the petitioner for the grant of interest has been opposed. It has been stated that after the petitioner was acquitted on 28.05.2015, leave encashment amounting to ₹5,65,150/- was released on 10.06.2015 i.e. within a period of one month from the date of acquittal. Further, the arrears of pension were also released to the petitioner on 01.09.2015 that too within a reasonable time. In respect of the gratuity, the respondents have stated that the same was released on 01.10.2016 amounting to ₹1 lac. Arrears of pension amounting to ₹1,19,224/- was also released on 01.10.2016. Commutation of pension was released on 07.10.2016 amounting to ₹5,05,406/- and, therefore, no interest is liable to be paid on these amounts.

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

It has been admitted by the parties that till 28.05.2015, the proceedings in respect of the FIR registered under the Act was pending against the petitioner. The petitioner was acquitted on 28.05.2015 and after that there was no proceeding pending against the petitioner. The objection with regard to the grant of interest in respect of leave encashment and arrears of pension, which were released on 10.06.2015 and 01.09.2015 respectively, is to be accepted as the same were released within a reasonable time after acquittal of the petitioner on 28.05.2015.

In respect of the gratuity, arrears of pension and commutation of pension which were released in October, 2016, no justifiable reason has been given by the respondents. In case after the acquittal, leave encashment could have been paid to the petitioner in June, 2015, why these payments were not made to the petitioner at that time? In the absence of any justifiable reason, the petitioner is entitled for interest on delayed payments in view of the law laid down by the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab, 1997 (3) SCT 468.*** The relevant portion 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 the 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."*

Further, this Court in the case of ***J.S. Cheema Vs. State of Haryana and others, 2014(13) RCR (Civil) 355*** while dealing with the retention of the amount, for which an employee is entitled for interest, the following observations have been made :-

> *"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 view of the above, the petitioner is held entitled for the interest @ 9% per annum on the release of the gratuity and arrears of pension as well as commutation of pension released in October, 2016 from 10.06.2015 onwards till the payment of the said amount.

Writ petition stands allowed in above terms.

**February 04, 2019** **(HARSIMRAN SINGH SETHI)**
*kanchan* **JUDGE**

*Whether speaking/reasoned? Yes/No*
*Whether reportable? Yes/No*