

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(1)

CWP No. 3344 of 2018

Date of Decision : 05.02.2019

Harjit Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

(2)

CWP No. 1468 of 2018

Balbir Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

(3)

CWP No. 2147 of 2018

Varinderpal Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Dinesh Kumar Chaudhary, Advocate for the petitioners
in all the petitions.

Mr. Mehardeep Singh, Addl. A.G., Punjab.

Mr. Aman Sharma, Advocate
for the respondent-PRTC.

Harsimran Singh Sethi, J.(Oral)

By this common order, three writ petitions bearing CWP Nos.

3344 of 2018, 1468 of 2018 and 2147 of 2018 are being disposed of as

common question of law and similar facts have been stated in all the writ petitions.

The grievance which has been raised in the present writ petitions is that though the petitioners retired on different dates, their pensionary benefits were released after undue and unexplained delay, therefore, the interest is being claimed on the delayed release of the payments. In CWP No. 3344 of 2018, there are four petitioners, whose date of retirement is as under :-

<i>Sr. No.</i>	<i>Name & Designation</i>	<i>Date of Retirement</i>
1	Harjit Singh s/o Ujagar Singh, age 67 years, resident of 27-D, Ranjit Nagar, Patiala, Junior Assistant 3028	30.09.2010
2	Brij Bhushan s/o Gora Lal, age 67 years, resident of House No. 5102, Mohalla Dalapura, Patiala, Junior Assistant 3059	31.10.2010
3	Sham Sunder s/o Ram Chand, age 63 years, 2198, Jourrian Bhattian, Patiala, Mechanic 3736	30.09.2012
4	Gulshan Lal s/o Manohar Lal, age 67 years, resident of 433, Partap Gate (Chowk), Kaithal, Senior Assistant 3325	31.10.2011

In paragraph 5 of the writ petition, details of the payments alongwith the date of release of the same have been mentioned, which is as under :

<i>Sr. No.</i>	<i>Petitioner</i>	<i>Gratuity (Rs.) with date of payment</i>	<i>Leave encashment (Rs.) with date of payment</i>	<i>GPF (Rs.) with date of payment</i>	<i>Period of late payment</i>		
					<i>Y</i>	<i>M</i>	<i>D</i>
1	Harjit Singh	389516 dt. 27.4.2011 26341 dt. 17.4.2012	255420 dt. 27.6.2011	295496 dt. 5.7.2013	01	03	17
2	Brij Bhushan	380459 dt. 29.12.2011	249280 dt. 20.8.2011	529261 dt. 9.7.2013	01	01	28
3	Sham Sunder	200000 dt. 9.10.2013 277601 dt. 11.2.2015	329380 dt. 31.5.2016	450928 dt. 10.2.2015	03	08	01
4	Gulshan Lal	523957 dt. 2.1.2012	317550 dt. 29.5.2012	557817 dt. 9.12.2015	00	06	28

In CWP No. 2147 of 2018, there are 10 petitioners, whose date of retirement is as under :-

<i>Sr. No.</i>	<i>Name & Designation</i>	<i>Date of Retirement</i>
1	Varinderpal Singh s/o Mehar Singh, r/o Sant Nagar, Mahelan Road, Sangrur, Age 59 years, Superintendent-4376	31.12.2016
2	Charanjit Singh s/o Nikha Singh, Village & P.O. Badru Khan, Distt. Sangrur, Age 63 years, Helper-3984	31.05.2014
3	Karnail Singh Gunman s/o Partap Singh, Village & P.O. Saron, Disttt. Sangrur, Age 63 years, 4234	31.01.2016
4	Gurcharan Singh s/o Mukhtiar Singh, Village & P.O. Khadial, Tehsil Sunam, Distt. Sangrur, Age 63 Fitter	30.11.2014
5	Lal Singh s/o Sucha Singh, Village & P.O. Dugal Kalan, Tehsil Patrain, Distt. Patiala, Age 52 years, Clerk - 4414	31.08.2016
6	Kuldeep Singh s/o Chanan Singh, Village & P.O. Mangwal, Distt. Sangrur, Age 60 years, Superintendent-4037	30.04.2015
7	Rajwinder Singh s/o Natha Singh, near Tarkseal Bhawan, Kartar Singh Soraba Nagar, Gali No. 4 Barnala, Age 59 years, Carpenter-4409	31.12.2016
8	Satpal s/o Kishan Chand, Ward No. 10, Patel Nagar Narwana, Distt. Jind, Age 59 years, Junior Assistant-4489	30.04.2017
9	Gurgant Singh s/o Nirjan Singh, Village and P.O. Duggan, Distt. Sangrur, Age 62 years, 3667	30.04.2013
10	Gurmail Singh s/o Jaggar Singh, Village & P.O. Ubhewal, Distt. Sangrur, Age 60 years, 4226	31.12.2015

In para 5 of CWP No. 2147 of 2018, the details of release of the payments in respect of each petitioner has been given, which is as under :-

<i>Sr. No.</i>	<i>Petitioner</i>	<i>Gratuity (Rs.) with date of payment</i>	<i>Leave encashment (Rs.) with date of payment</i>	<i>GPF (Rs.) with date of payment</i>	<i>Period of late payment</i>		
					<i>Y</i>	<i>M</i>	<i>D</i>
1	Varinderpal Singh	200000/- dt. 20.11.2017 754421/- dt. 20.07.2017	578480/- dt. 4.12.2017	20000/- dt. 23.4.2017 23336/- dt. 25.7.2017	03	11	
2	Charanjit Singh	278549/- dt. 16.12.2016		480000/- dt. 27.1.2017	26	07	02
3	Karnail Singh	323774/- dt. 19.5.2017	286270/- dt. 16.08.2017	169432/- dt. 16.6.2016	08	03	01
4	Gurcharan Singh	299881/- dt. 8.4.2016	251200/- dt. 3.5.2016	200000/- dt. 2.5.2015	03	05	01

5	Lal Singh	249685/- dt. 30.1.2017 20000/- dt. 28.7.2017	233130/- dt. 4.12.2017	524495/- dt. 12.6.2017	27	10	00
6	Kuldeep Singh	814605/- dt. 26.5.2016 38247/- dt. 26.5.2016	493700/- dt. 30.5.2016 23100/- dt. 30.5.2014	----	00	01	01
7	Rajwinder Singh	200000/- 551040 dt. 30.11.2016	419224/- dt. 4.12.2017	127000/- dt. 28.7.2017	27	06	00
8	Satpal	750816/- dt. 1.12.2017	455040/- dt. 4.12.2017	527084/- dt.25.10.2017	04	07	00
9	Gurjant Singh	637692/- 29667.66 dt. 6.4.2016	386480/- 17980/- dt. 27.3.2014	271701/- dt. 27.3.2014	30	10	--
10	Gurmail Singh	609065/- dt. 27.5.2016	369130/- dt. 31.5.2016	178352 dt. 21.4.2016	23	04	--

In CWP No. 1468 of 2018, there are 17 petitioners. The details and dates of retirement and release of the benefits is as under :-

<i>Sr. No.</i>	<i>Name of the petitioners</i>	<i>Late Payment of Retiral Benefits</i>				
		<i>Date of Retirement</i>	<i>Gratuity</i>	<i>Leave Encashment</i>	<i>GPF</i>	<i>Revised DA</i>
1	Balbir Singh	31.05.2016	29.07.2017	16.08.2017	09.12.2016	16.08.2017
2	Harbhagwan Dass	31.03.2014	08.04.2016	31.05.2016	12.02.2015	14.06.2017
3	Gurtej Singh	31.05.2012	07.02.2015	31.05.2016	07.02.2015	13.02.2015
4	Mit Singh	31.01.2015	08.04.2016	31.05.2016	13.02.2015	08.04.2016
5	Darshan Singh	31.05.2012	10.02.2015	31.05.2016	07.02.2015	
6	Budh Ram	28.02.2013	08.04.2016	08.04.2016	07.02.2015	30.05.2016
7	Mohmad Ali	31.03.2014	08.04.2016	31.05.2016	11.02.2015	20.07.2016
8	Nand Lal	31.05.2016	29.07.2017	16.08.2017	26.12.2016	
9	Harjit Singh	31.05.2016	29.07.2017	16.08.2017	07.04.2017	
10	Balwant Singh	31.03.2016	29.07.2017	16.08.2017	16.12.2016	
11	Kaur Chand	29.02.2016	19.05.2017	16.08.2017	30.11.2016	
12	Pala Singh	28.02.2011	13.06.2012	13.06.2012	09.01.2015	
13	Mithu Singh	31.03.2013	08.04.2016	30.05.2016	05.02.2015	
14	Mahabir Kumar	30.04.2016	16.08.2017	16.08.2017	05.12.2016	
15	Jarnail Singh	31.05.2016	16.08.2017	29.07.2017	09.12.2016	
16	Ram Chander	30.04.2012	10.02.2015	07.02.2015	07.02.2015	
17	Sarabjit Singh	31.08.2015	26.05.2016	30.05.2016	11.04.2016	

The above averments, which have been made in the writ petitions, have gone un-rebutted as there is no reply, which have been filed

by the respondents. Rather, during the course of the hearing, learned counsel for the respondents admitted the above mentioned factual position to be correct.

Learned counsel for the petitioners states that as there is an inordinate and unexplained delay in releasing of the pensionary benefits, which is clear from the chart reproduced above, the petitioners are entitled for the interest on the said delayed payments in view of the settled principle of law.

Learned counsel for the respondents objects to the prayer by stating that the Corporation was in financial difficulty, therefore, it was very difficult to release the pensionary benefits immediately and, therefore, once the pensionary benefits have already been released, no more burden should be put upon the Corporation for the grant of interest on the said payments.

As per the settled principle of law settled by the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab, 1997 (3) SCT 468***, an amount for which an employee is entitled for, especially, pensionary benefits, if not released within a reasonable time, will carry the interest as well. 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 retiree 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.”

Not only this, a Co-ordinate Bench of this Court while deciding ***J.S. Cheema Vs. State of Haryana and others, 2014(13) RCR (Civil) 355***, has held that once the amount has been retained by the department, the department is liable to pay the interest on the said retained amount. The relevant portion 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.”

In view of the above, it can be safely said that once the amount was released by the respondents after an inordinate and unexplained delay, the petitioners become entitled for the interest.

The only objection which has been taken by the counsel for the respondents is the financial difficulties, which the Corporation was facing due to which there was a delay. The said ground is not a valid ground in view of the law laid down by this Court in ***Ram Karan Vs. Managing Director, Pepsu Road Transport Corporation and another, 2005(3) PLR 580***, wherein the financial difficulty has to be held as not a valid ground to retain the pensionary benefits. The relevant paragraph of the said judgment

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 are being paid in the State of Punjab. It was also argued 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."

In view of the above, as there is no justifiable reason with the respondents to withhold the pensionary benefits and the only ground given of the financial crisis is not a valid ground to withhold the benefits, the petitioners are held entitled for interest on the delayed payments @ 9% per annum from the date it became due till the same was released to them. Let the calculation of the interest be done by the respondent-Corporation within a period of two months from the date of receipt of copy of this order and the amount so calculated by the respondents shall be released to the petitioner(s) within a period of one month thereafter.

The writ petitions stand allowed in above terms.

February 05, 2019
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned? Yes
Whether reportable? Yes