IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.3629 of 2018
DATE OF DECISION:30.01.2019

Kala Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. M.K. Dogra, Advocate for the petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

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HARSIMRAN SINGH SETHI, J. (ORAL)

The present writ petition has been filed seeking the retiral benefits.

As per the averments made in the present writ petition, the petitioner was initially appointed as Beldar on work charge basis and his services were regularized by the Government on 13.03.1996. Thereafter, he kept on working under respondent No.3 till he attained the age of superannuation and retired on 28.02.2017.

The grievance which has been made in the present writ petiiton is that though the petitioner retired on 28.02.2017 but the retiral benefits have not been released so far without any justifiable reasons.

Upon notice, the respondents have filed reply and in the reply, it has been stated that benefits have already been released to the petitioner. The relevant para of the reply is as under:

> "5. That in the compliance with the order dated 16.02.2018 of Hon'ble High Court, all the retiral dues of the petitioner has been paid to the petitioner after refixing his pay and deposited in the saving account of the petitioner. The detail of the payments made to the petitioner is as under:-

Sr. No.	Particular	Amount	Cheque No./Date of Payment
1.	Gratuity	5,64,929/-	GDR-40512170078003 Dated 5.12.2017
2.	Leave Encashment	3,64,470/-	GDR-2610170099004 Dated-26.10.17
3.	GPF	2,66,778/-	GDR-041603180011002 Dated-16.3.2018
4.	GIS	6803/-	GDR-04150218357800 Dated-05.02.2018
5.	Arrear on account of Special increments & ACP Scheme 4,9,14 years of service	63487	GDR No. 043003180046001 dated 30.03.2018

Counsel for the petitioner does not deny the receipt of the amount mentioned in para 5 of the reply reproduced above.

Counsel for the petitioner states that as per the decision rendered by the Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab 1997(3) SCT 468,** the petitioner is entitled for interest also as no valid justifiction has been given by the respondents about the delayed release of the retiral benefits to the petitioner. In the absence of any justifiction, the petitioner claims that he is entitled for interest on the delayed payments.

In the written statement, no reason has been given as to why the retiral benefits were released approximately after a period ranging from nine months to thirteen months in the absence of any justifiction. The claim of the petitioner is squarely covered by the decision rendered by the Full Bench in **A.S. Randhawa's case** as mentioned above. 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 view of the above, the petitioner is 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 petiton stands allowed in the above terms.

January 30, 2019
jt **(HARSIMRAN SINGH SETHI)**
JUDGE

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