IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

**CWP No. 7766 of 2017**
**Date of Decision : 14.02.2019**

**Sukhdev Raj**
**...Petitioner**

**Versus**

**State of Punjab and others**
**...Respondents**

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

Present: Mr. S.K. Rattan, Advocate for the petitioner.

Ms. Deepali Puri Sandhu, Addl. A.G., Punjab.

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

In the present writ petition, the prayer made by the petitioner is that he is entitled for the grant of annual increments for the extended period of service of two years being handicapped and further, release of the pensionary benefits such as leave encashment alongwith interest.

As per the averments made in the writ petition, the petitioner was appointed as a Silt Observer with the respondents on 28.12.1984. It has been contended that the petitioner is suffering from 50% disability and due to which, he was granted handicap allowance as well. The services of the petitioner as a Silt Observer were regularized on 13.03.1996 and he continued working as such till he retired on 31.12.2015. The grievance of the petitioner is that he has not been granted annual increments from 01.01.2014 till 31.12.2015 on the ground that he was on extension, whereas as per law the retirement age of handicapped person was 60 years and not of 58 years and, it is contended that petitioner was entitled for the increment for the service which he rendered from 01.01.2014 till 31.12.2015 as he was in service and not on extension as being treated by the respondents.

Upon notice of motion, respondents have filed the reply. In the reply, claim of the petitioner has been admitted. It has been mentioned in the reply that the petitioner has been granted two annual increments and his pension and DCRG have also been revised by the respondents. Further, the leave encashment has also been paid to the petitioner. The short reply filed on behalf of the respondents is as under :-

> *"3. That the petitioner has been granted annual increments for the extended period of two years being handicapped vide Office Order No. 1008/P.F./R.O. dated 19.04.2018 (Annexure R-1). Accordingly his Leave Encashment has been revised vide Office Order No. 1187/P.F./R.O. dated 30.05.2018 and his revised Pension/DCRG case has been forwarded to the Accountant General, Punjab, Chandigarh vide Office Memo No. 1607-08 dated 19.07.2018.*
>
> *4. That as intimated by Financial Advisor & Chief Accounts Officer, Ranjit Sagar Dam, Shahpur Kandi Township, Pathankot (Respondent No. 4), all other claims of the petitioner as detailed below have been settled:*

| *Sr. No.* | *Particulars* | *Amount (Rs.)* |
|---|---|---|
| 1 | Leave Encashment | ₹3,94,200/- |
| 2 | Arrear of revision of pay on account of grant of Special Increments | ₹1,04,610/- |
| 3 | Arrear of revision of DCRG on account of grant of Special Increments | ₹25,746/- |
| 4 | Arrear of revision of Leave Encashment on account of grant of Special Increments | ₹17,080/- |

Learned counsel for the petitioner states that though the payments have been released but the petitioner has not been paid the interest and the same has been denied by the respondents in para 5 of the short reply, which is arbitrary.

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

Once the petitioner was not on extension w.e.f. 01.01.2014 till 31.12.2015, he was entitled for the increments. The retirement age of an handicapped person is 60 years and, therefore, petitioner could not have been denied the benefit of increments while he was in service by treating the same as extension in service. Furthermore, the respondents have realised their mistake and have released the benefit to the petitioner though at a later stage. Further, no justification has been given by the respondents as to why the pensionary benefits of the petitioner have been released after a delay. The affidavit is totally silent about the delay in releasing the pensionary benefits. In the absence of the said justification, it can be presumed that there was no justifiable reason with the respondents to withhold the pensionary benefits.

It is a settled principle of law settled by the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab, 1997 (3) SCT 468***, that where there is a delay in release of the benefits to an employee without any valid justification, the employee becomes entitled for interest. The relevant paragraph of this 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, a Coordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana and others, 2014(13) RCR (Civil) 355,*** has held that where Government has retained the amount, for which the employee was entitled for, the Government is bound to pay interest on the said amount. The relevant paragraph 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, the case of the petitioner is squarely covered by the above reproduced judgments so as to entitle him the interest on the delayed release of increments by the respondents. The petitioner would be entitled for interest @ 9% per annum from the date the payment became due till the same was released to the petitioner. Let the interest be calculated by the respondents within a period of two months from the date of receipt of copy of this order and the actual payment, which the petitioner is found entitled for, shall also be released within a period of next one month.

The writ petition stands disposed of in above terms.

**February 14, 2019** **(HARSIMRAN SINGH SETHI)**
*kanchan* **JUDGE**

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