IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-5440-2018
Date of decision: - 10.04.2019

Krishnawanti

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Padamkant Dwivedi, Advocate,
for the petitioner.

Ms. Deepali Puri Sandhu, Additional Advocate General, Pb.

Mr. K.S. Dadwal, Advocate with
Ms. Neha Jain, Advocate,
for respondents No.2 and 3.

Mr. B.S. Kanwar, Advocate,
for respondents No.5 and 6.

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HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the grievance of the petitioner is that she is yet to be paid 1/3rd arrears of salary as calculated in pursuance to the recommendation made by the 4th Pay Commission.

Counsel for the petitioner argues that a question of law raised in the present writ petition has already been answered by this Court in **CWP No.25296 of 2016** tittled as '**Jeewan Asha** Vs. **State of Punjab and others'.** In the said writ petition also, similarly situated employees had approached this Court for the release of 1/3rd arrears of their salary as calculated on the basis of 4th Pay Commission and the said benefit was allowed in their favour by this Court. The relevant paragraph of the said judgment is as under: -

> "Keeping in view the above, in respect of the grant of retiral benefits to the petitioners upon their retirement as well for the grant of arrears of revision of the 5th Pay Commission, till their retirement, a direction is issued to the respondent Board to release their benefits within a period of two months from the date of receipt of certified copy of this order unless already released. Respondent Board will be at liberty to claim the same from the government in accordance with law. As the government has already released the amount in the case of the similarly situated employees, request of the Board will be examined and decided in the same manner.
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> Further, the respondents shall also release the remaining 1/3rd arrears which were not paid to the petitioners on account of revision of the pay-scale as recommended by 4th Pay Commission, which has already been released to the similarly situated employees by the respondents. The same shall also be done in the aforesaid period of two months unless already released to them.
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> In respect of the pensionary benefits for which the petitioners were entitled for upon their retirement, the arguments of counsel for the petitioners is that as per the settled principle of law settled by the Full Bench of this Court, as release of their pensionary benefits have been delayed, the petitioners are entitled for the interest on the delayed release of the gratuity and leave encashment.
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> Counsel for respondents No.2 and 3 states that petitioners are not entitled for the interest as they have filed the writ petitions starting from the year 2016 and therefore, once the petitioners raised the grievance only in the year 2016 and benefit of leave

encashment was released to them immediately thereafter, no interest is payable.

The employees are entitled for release of their retiral benefits immediately upon their retirement or within a reasonable time thereafter. Petitioners retired in 2014 and the benefits of leave encashment was withheld till November, 2017 and that too without any valid justification, hence, it cannot be said that the petitioners will not be entitled for the interest. The payment of retiral benefits is the duty of the employer and that too without there being any asking for the same as the same is the right of an employee to get it immediately upon his/her retirement so as to have a dignified life after retirement. It was obligatory upon the respondents to release all the benefits when the petitioner retired in the year 2014. Further, the interest can only be declined if there was a valid justification to withhold the retiral benefits. In the absence of any valid justification, the grant of interest is a right as per the settled principle of law settled by the Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468.**

In the present writ petitions, no valid justification has been given as to why the interest has not been paid upon the gratuity and leave encashment. Even under the Payment of Gratuity Act, an employee is entitled for interest if the payment of the same is elayed without any valid justification.

Therefore, the petitioners are held entitled for the interest on the delayed payment of gratuity and leave encashment from the date they retired till the same was released to them @ 9% per annum. The respondents shall calculate the said interest amount within a period of three months from the date of receipt of this order and pay the same to the petitioners, within a period of next one month.

Present writ petition stand disposed of in the above terms."

Counsel for the respondents state that they have no objection in case the present writ petition is also disposed of in terms of the order passed by this Court in CWP No.25296 of 2016 as a direction has already been issued in the case of the similarly situated employees for the release of 1/3rd arrears of salary which are to be paid to them keeping in view the recommendation made by the 4th Pay Commission.

Keeping in view the request of the counsel for the parties, present writ petition is disposed of in terms of CWP No.25296 of 2016 in respect of the prayer made in the present writ petition.

However, it is made clear that the petitioner will not be entitled for any interest on the said payment as held in the order passed in CWP No.25296 of 2016.

(HARSIMRAN SINGH SETHI)
JUDGE

April 10, 2019
naresh.k

Whether reasoned/speaking? Yes
Whether reportable? No