IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.7933 of 2018
DATE OF DECISION:13.02.2019

Shamsher Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. R.K. Dadwal, Advocate for the petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

****

<u>HARSIMRAN SINGH SETHI, J. (ORAL)</u>

In the present writ petition, the grievance of the petitioner is that though the petitioner retired from service on 30.04.2017, the pensionary benefits for which the petitioner was entitled for were released after an undue and unexplained delay for which the petitioner is entitled for interest keeping in view the law laid down by the Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab 1997(3) SCT 468.**

As per the facts stated in the writ petition, the petitioner joined as S.S. Master on 14.01.1982, on which post, his services were regularized on 01.04.1985. Thereafter, the petitioner was promoted as Lecturer on 11.03.1993 and ultimately, he was promoted as Principal on 24.07.2013 from which post the petitioner retired on 30.04.2017.

The grievance of the petitioner is that the petitioner was not paid the retiral benefits immediately on his retirement and there is an undue and unexplained delay in releasing the same.

Counsel for the petitioner states that there was no impediment in the release of the pensionary benefits as there was no enquiry or any proceedings pending against the petitioner which would entitle the respondents to withhold the said pensionary benefits, hence for the delay in releasing the benefits, the petitioner is entitled for interest on the released payments.

Upon notice of motion, the respondents have filed reply. In reply, the respondents have given the details of the payments which were made to the petitioner. The relevant para in this regard is reproduced hereunder:

> "That the details of payment made to the petitioner is being given in following table for kind perusal of this Hon'ble Court:-

Sr.No.	Nature of Bill	Amount	Bill sent to Treasury	Date of payment
1	General Provident Fund	547664	26.05.2017	26.05.2017
2	Death Cum Retirement Gratuity	10,00,000	16.06.2017	08.03.2018
3	Leave Encashment	579663	20.09.2017	08.03.2018
4	Group Insurance Scheme	42132	20.11.2017	07.12.2017

A bare perusal of the above would show that only general provident fund was paid to the petitioner on his retirement and rest of the payments were made starting from December 2017 till March,

2018. There is delay of more than six months in releasing those benefits. In the reply, no justification has been given by the respondents for the delay in payments. In the absence of any justification, the petitioner becomes entitled for the interest on the said delayed payments.

As per law laid down by the Full Bench of this Court in **A.S. Randhawa's case (supra),** the employee is entitled for interest on the delayed release of payments in case there is valid justification given for withholding the said payments. 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 facts of the present case, it is clear that the death-cum-retirement gratuity, leave encashment and group insurance were released to the petitioner after unexplained delay and, therefore, the case of the petitioner is squarely covered for the grant of interest on these three payments. The petitioner is held 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.

February 13, 2019
jt **(HARSIMRAN SINGH SETHI)**
JUDGE

Whether speaking/reasoned: Yes / No

Whether reportable : Yes / No