IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-8099-2018
Date of decision: - 11.03.2019

Romesh Chand

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Harnek Singh, Advocate, for the petitioner.

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

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HARSIMRAN SINGH SETHI, J. (ORAL)

Reply has been filed on behalf of the respondents today in the Court and the same is taken on record. A copy thereof has been supplied to counsel for the petitioner.

In the present writ petition, the grievance which is being raised by the petitioner is that though he retired from service on 31.05.2016, but actual payments were made to him only on 26.10.2017 i.e. after a delay of approximately one year and four months and he is entitled for interest on the delayed release of the payments.

As per the averments made in the writ petition, petitioner was appointed as a Conductor in Punjab Roadways on 02.01.1979. Thereafter, he was promoted as an Inspector and he retired on 31.05.2016, on attaining the age of superannuation.

Counsel for the petitioner states that though the petitioner retired in May, 2016, but actual benefits were released to him only on 26.10.2017. The averments in this regard have been made in para No.4 of the writ petition.

Counsel for the petitioner further states that there was no legal impediment in the release of the pensionary benefits, but still the same were withheld by the respondents without any justifiable reason for a period of approximately one year and four months.

In reply to the writ petition, it has been stated by the respondents that after the petitioner retired on 31.05.2016, his case was sent for approval and the same was sent to the Treasury for the payment on 01.08.2016. Further, on 03.11.2016, Treasury Officer, Ludhiana, returned the said bill with an objection and the same was removed. Again the bill was sent on 03.01.2017, but again an objection was raised by the Treasury and the said bill was returned. Ultimately, the bill was passed by the Treasury on 26.10.2017, after which the payment was made to the petitioner. The relevant portion of the reply is as under: -

> "That in present civil writ petition the petitioner is misleading this Hon'ble Court and concealing the true facts of the case. The petitioner was retired on 31.05.2016. The pension case of the petitioner was prepared prior to his retirement and same has been sent to the Accountant General, Punjab, Chandigarh vide letter No.3363 dated 6.4.2016 for approval. After receiving the approval from the Accountant General, Punjab, Chandigarh, the bill of Gratuity was prepared within time and same was sent to the Treasury Officer, Ludhiana for payment vide bill No.498 dated 1.8.2016. No delay was made on the part of the answering respondent. The delay was made on the part of the Treasury

> Officer, Ludhiana. But the petitioner has not impleaded the Treasury Officer, Ludhiana as a party in the present writ petition and in the case of Leave encashment, after adopting the due process of law the bill of the same has been sent to the Treasury Officer, Ludhiana vide bill No.728 dated 03.11.2016, but same returned to this office with objection to explain the detail of extension period. After removing the objection the bill was sent back to the Treasury Officer Ludhiana on 21.12.2016. The Treasury Officer, Ludhiana returned the bill to this office with objection to give the certificate of permission of extension. After removing the objection the bill was sent back to the Treasury Officer Ludhiana on 03.01.2017. The Treasury Officer, Ludhiana returned the bill to this office objection that the period of extension and certificate of permission of extension are not matched together. After removing the objection the bill was sent back to the Treasury Officer, Ludhiana on 19.01.2017. The Treasury Officer, Ludhiana returned the bill to this office with objection that the objection was not removed. After removing the objection the bill was sent back to the Treasury Officer, Ludhiana on 13.02.2017. The Treasury Officer, Ludhiana fixed the payment order and token number on the bill but the bill was not passed before the 31.03.2017, due to the end of session 2016-17, the bill returned to this office. The office of the answering respondent sent the bill to the Treasury Officer, Ludhiana on 14.05.2017 and the bill was passed by the Treasury Officer, Ludhiana vide his voucher No.221 dated 26.10.2017. Due to this procedure the delay was caused, which was not intentionally. This is procedural delay and no delay was made on the part of the answering respondent."

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

It is an admitted fact that the petitioner retired on 31.05.2016, but the payments were made to him only in October, 2017.

Counsel for the petitioner states that there was no impediment in releasing of the same as there was no proceedings against the petitioner, which would entitle the respondents to withhold the pensionary benefits. Hence, the delay in release of the retiral benefits entitles the petitioner for interest from the date it became due till the payments received by him.

On the other hand, again counsel for the respondents states that the delay was on the part of the Treasury as the objection was raised by the Treasury as and when the bill was sent by the Administration Department for the payment of the same and therefore, as the matter remained under process, there was no intentional delay and the petitioner is not entitled for interest.

From the pleadings, it is clear that the petitioner was not at fault at any stage. Petitioner was entitled for the benefit of pension and other benefits immediately upon his retirement, but the same were delayed for a period of approximately one year and four months. The objection which was raised by the Treasury and clearing of the same by the Administrative Department is their internal matter. The petitioner cannot be prejudiced for the same. Once, there was no fault on the part of petitioner, which is attributable to a delay, petitioner is entitled for the interest.

As per the settled principle of law settled by a Full Bench of this Court in case **A.S. Randhawa Vs. State of Punjab and others, 1997 (3)SCT 468,** the amount which has been retained by the respondents and there is a delay in releasing the same, the employee will be entitled to interest. The relevant paragraph 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 front 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, in the case of **J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355,** this Court had held that an employee will be entitled for the interest of an amount which has been retained by the respondents without any valid justification. The relevant paragraph of **J.S. Cheema's case (supra)** 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."

A bare perusal of the above would show that where the amount has been retained by the department that too without any valid justification, the employee has been held entitled to the interest.

In view of the above, the petitioner is held entitled for the grant of interest @ 9% per annum on the delayed payments which were released to him.

Accordingly, the present writ petition is allowed and the respondents are directed to calculate the interest @ 9% per annum on the delayed payments, which have been made to the petitioner. The interest shall be calculated from the day when the petitioner became entitled for the release of the amount till the actual payment was released to him.

Let the calculation be done within a period of two months from the date of receipt of a certified copy of this order and the actual payment shall be released to the petitioner within one month thereafter.

(HARSIMRAN SINGH SETHI)
JUDGE

March 11, 2019
naresh.k

Whether reasoned/speaking? Yes
Whether reportable? Yes