IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.14349 of 2016
DATE OF DECISION:27.03.2019

Dr. Jagwinder Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. H.S. Dhindsa, Advocate for the petitioner.

Mr. Mehardeep Singh, Additional Advocate General, Punjab.

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HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the grievance which is being raised by the petitioner is that the retiral benefits of the petitioner were delayed by the respondents and hence the petitioner is entitled for interest on the said delayed payments of the retiral benefits in view of the law laid down by the Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab 1997(3) SCT 468.**

The facts as mentioned in the writ petition are that the petitioner superannuated on 30.04.2015 while working as Senior Medical Officer. After the petitioner retired, the benefits were paid to the petitioner in the following manner:

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Amount (in Rs.)	Head	Dated
14,12,029/-	GPF	09/03/16
4,40,567/-	Leave Encashment	27/04/16
10,00,000/-	Gratuity	02/05/16
8,56,044/-	Commuted pension	01/05/16
6,58,977/-	Arrear of Pension	01/05/16
3,06,051/-	Pay Arrears of ACP 4-9-14	08/03/17
92,240/-	GIS	May 2017
19,151/-	Arrear of pay of one month (01.04.2001 to 30.04.2015)	04/05/16
Total+ 47,85,059/-		

Counsel for the petitioner states that as the payments were made after inordinate delay ranging from approximately 11 months to 13 months, the petitioner is entitled for interest on the said delayed payments.

Upon notice of motion, the respondents have filed the reply to the averments made in the writ petition. In para 2, it has been stated by the respondents that delay is attributable to the petitioner. It has been mentioned that in order to prepare the pension papers, certain forms are required to be filled up, which are to be filled up prior to the date of retirement. In the present case, petitioner failed to submit the said documents even upto the date of retirement and after requesting the petitioner time and again, the said formalities were completed by the petitioner on 27.08.2015.

On the basis of above averments, counsel for the respondents states that the payments were made to the petitioner immediately upon fulfilling the required formalities.

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Further, the respondents have given a chart in the affidavit filed by the respondents in respect of the payments already made to the petitioner. The said chart is as under:

Sr. No.	Heads	Amount	Voucher No. and date of releasing the amount
1	GPF	Rs.14,12,029/-	82 of 9-3-2016
2	Leave Encashment	Rs.4,40,567/-	141 of 16-3-2016
3	Gratuity	Rs.10,00,000/-	69 of 2-5-2016
4	Arrear of pay of one month (1-4-2015 to 30-4-2015)	Rs.19,151/-	50 of 4-5-2016

2) That the arrears of pay of 14 years placement benefit from 1-1-2014 to 31-3-2015 has already been released to the petitioner by department vide bill No.392 dated 8-3-2017. The petitioner has also admitted this fact in the writ petition."

I have heard the counsel for the parties and have gone through the record of the case.

On bare perusal of the charts which have been reproduced above would show that the payments were made to the petitioner starting from March, 2016 till May, 2016. The petitioner retired in April, 2015. Even if, it is assumed for the sake of arguments that the formalities were completed in August, 2015. Then also, there is delay of more than six months in releasing the pensionary benefits. No explanation has been given by the respondents about the said delay. Furthermore, the counsel for the petitioner states that the forms, which are to be filled up as being asked by the respondents were only in respect of the GPF fund only. For the release of the other benefits, no formalities are required to be fulfilled/undertaken.

Once the petitioner completed the formalities in August, 2015 as stated by the respondents in reply, which fact has not been

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controverted in the replication by the petitioner, the delay will only start from August, 2015 onwards and not from the date the petitioner retired. There is no valid justification given as to why the payments were delayed for more than six months even after August, 2015. 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.

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."

The case of the petitioner is covered by the above said settled principles of law even if it is assumed that the petitioner completed the formalities in August, 2015.

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In view of the above, the petitioner is found entitled for interest @ 9% per annum from August, 2015 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.

March 27, 2019
jt **(HARSIMRAN SINGH SETHI)**
JUDGE

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

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