IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

(267) **CWP-25169-2017**
Date of Decision: February 25, 2019

Aurobindo Mittra **..Petitioner**

Versus

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

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vikas Chatrath, Advocate, with
Ms. Anureet Budwal, Advocate, for the petitioner.

Mr. Mehardeep Singh, Addl. A.G., Punjab.

HARSIMRAN SINGH SETHI, J.(ORAL)

The grievance raised in the present writ petition is that though the petitioner was allowed voluntary retirement w.e.f. 02.05.2017, all the pensionary benefits, for which the petitioner became entitled for upon the grant of the request for voluntary retirement, have not been paid to the petitioner.

It has been alleged in the writ petition that the petitioner joined the department on 20.01.1997 as PCMS Class-I. While working as such, the petitioner submitted an application for the voluntary retirement on 30.01.2017 as the petitioner was fully eligible to seek voluntary retirement after rendering 20 years of service. Three months notice was given by the petitioner.

Keeping in view the application submitted by the petitioner, the respondent-department accepted the request and conveyed it to the petitioner about the acceptance of his request for voluntary retirement.

Learned counsel for the petitioner states that the pensionary benefits were not being released by the respondents though the department has already sanctioned the same. The petitioner approached this Court with a prayer that the respondents be directed to release the pensionary benefits immediately.

Upon notice of motion, the respondents have filed the reply.

In the reply, the respondents have admitted that the petitioner retired after seeking voluntary retirement w.e.f. 02.05.2017 and upon the retirement, the benefits have already been released to the petitioner. A detailed chart has been given in respect of the release of the payment to the petitioner in paragraph 2. The relevant paragraph No. 2 and 3 is as under:-

> *"2. That the petitioner had joined the answering respondent department on 20.01.1997 as P.C.M.S and joined at S.H.C. Barwoli Khurd (PHC Nandpur Kalur), district Fatehgarh Sahib. The petitioner submitted letter for voluntary retirement w.e.f. 02.05.2017 and the sanction for voluntary retirement was accepted by the competent authority vide its letter no. End. no. 17/25/2017-4H2/950133/1-6 dated 05.04.2017. The sanction of Leave Encashment of the petitioner was issued by the competent authority on 15.09.2017 and the bill of the petitioner was sent to District Treasury, SAS Nagar vide Bill No.122 dated 19.09.2017. On this bill the District Treasury officer, Sahibzada Ajit Singh Nagar has objected that the copy of sanction was not endorsed to them. Upon the letter for revision of Leave Encashment was sent to the higher authorities vide dated 13.10.2017. The revised sanction of Leave Encashment was received vide letter dated 09.11.2017*

and the bill was sent to District Treasury Officer, Sahibzada Ajit Singh Nagar on 21.11.2017.

The pensionary benefits disbursed to the petitioner in detail is given below:-

Sr. No.	Pensionary Benefits	Date of apply by doctor	Date of Sanction	Bills sent to district treasury	Date of disburse ment	Remarks
1.	Gratuity	25.05.17	31.08.17	06.09.17	19.03.18	
2.	G.P. Fund	25.05.17	08.08.17	16.08.17	02.02.18	
3.	Leave Encashment	25.05.17	13.09.17 and revised sanction 09.11.17	19.09.17 21.11.17	02.02.18	
4.	Pension	25.05.17	31.08.17			The petitioner applied pension case on dated 25.05.17 in the concerned office. The pension case was sent to district treasury.
5.	G.I.S.		14.12.17	14.12.17	01.01.18	

3. That the G.P.F. Final Payment case of the petitioner was sent to the higher authorities vide letter dated 25.05.2017. The sanction of G.P.F final payment was received vide letter dated 08.08.2017. The Bill of G.P.F. Final payment amounting to Rs.11,02,512/- was sent to District Treasury Officer, Sahibzada Ajit Singh Nagar on 04.10.2017. The bill of G.P.F. Final payment amounting to Rs.11,02,512/- was passed on 02.02.2018. That the pension case of the petitioner was sent to Accountant General, Punjab by Civil Surgeon, Mohali *dated 14.07.2017. The sanction of Pension and D.C.R.G was received on dated 06.09.2017 from Accountant General Punjab. The Bill of D.C.R.G was sent to District Treasury Officer, Sahibzada Ajit Singh Nagar on 08.09.2017. In view of these submissions, it is clear that there is no intentional delay in the release of the pensionary benefits of the petitioner. The delay, if any, is only procedural."*

Learned counsel for the petitioner accepts the factual position that the pensionary benefits already stands released to her by the respondent-department. Now the question is only with regard to the grant of interest on the delayed release of the payment.

Learned counsel for the petitioner states that reply filed by the respondents makes it clear that there is an inordinate delay in releasing the pensionary benefits of the petitioner and no valid justification has been given by the respondents for the delay in releasing the pensionary benefits to the petitioner.

Learned counsel for the respondents states that the amount was sanctioned immediately within a period of three months, which is clear from the chart mentioned above but the same was only disbursed late to the petitioner and therefore, no liability of the interest can be fastened upon the department, once the sanction was prompt and was made within a period of three months from the retirement of the petitioner.

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

A bare perusal of the factual averments made hereinbefore would make it clear that the petitioner was allowed the voluntary retirement w.e.f. 03.05.2017. Once the petitioner retired, the petitioner became entitled for the release of the retiral benefits. It has been admitted by the respondents themselves that the amount for which the petitioner became entitled for, was sanctioned immediately within a period of three months but the same was only released starting from January, 2018 onwards.

In respect of the GPF, the same was released in February, 2018. No justifiable reason has been given as to why, despite sanction, the amount was retained by the respondents.

As per the settled principle of law settled by the Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab, 1997(3) S.C.T. 468***, the employee is entitled for the interest on the delayed release of the payment, in case there was no valid justification to withhold the said amount. 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 from the date of retirement which time limit has been laid down by the Apex Court in M. Padmanbhan 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.*"

Further, the Coordinate Bench of this Court while deciding ***J.S. Cheema Vs. State of Haryana and others, 2014 (1) S.C.T. 782***, has held that on whatever ground the amount has been retained by the respondents, in case, there was no valid justification, the employee will be entitled for the interest as the amount has been used by the respondents to their benefits for which an employee was entitled for. 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 the present case, no valid justification has been given by the respondents to withhold the amount for which the petitioner became entitled for after her request for voluntary retirement was accepted and the petitioner stood retired w.e.f. 03.05.2017.

The present writ petition is allowed. The petitioner is entitled for payment of interest at the rate of 9% per annum from the date it became due till the same was actually released. Let the amount of interest be calculated within a period of three months from the receipt of copy of this order and the amount so calculated shall be released to the petitioner within a period of one month thereafter.

At this stage, counsel for the petitioner states that there was another payment of the arrears of dearness allowance, which have not been released so far and he seeks liberty in this regard to approach the respondents by filing appropriate representation.

The petitioner is given liberty in this regard.

In case, any such representation is filed, the respondents shall decide the same expeditiously within a period of three months from the receipt of the same by passing an appropriate order.

(HARSIMRAN SINGH SETHI)
JUDGE

February 25, 2019
harsha

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