IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-5358-2017
Date of decision: - 27.11.2019

Darshan Singh

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: - Mr. Neeraj Sharma, Advocate, for the petitioner.

Mr. Navdeep Chhabra, Deputy Advocate General, Punjab.

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HARSIMRAN SINGH SETHI, J. (ORAL)

The grievance which is being raised in the present writ petition is that though the petitioner had retired while working as Sub Divisional Officer on attaining the age of superannuation on 30.09.2015, but his pensionary benefits were delayed by the respondents beyond the reasonable time as fixed by the Full Bench of this Court in **A.S. Randhawa** Vs. **State of Punjab and others**, **1997(3) SCT 468** and therefore, the petitioner is entitled for the grant of interest on the said delayed payments.

The facts as mentioned in the writ petition are that the petitioner joined as a Sectional Officer in Punjab Water Supply and Sanitation Department on 07.02.1980. Thereafter, he was promoted to the post of Sub Divisional Officer, from which post, he ultimately retired on 30.09.2015 after availing two years extension. As per the pleadings, at the time of retirement, there were no proceedings pending against the petitioner, which would have entitled the respondents to withhold the pensionary benefits. The grievance of the petitioner is that benefit of the General Provident Fund amounting to ₹3,42,005/- was released to the petitioner on 09.03.2016; leave encashment amounting to ₹7,15,470/- and gratuity of ₹10,00,000/- were released on 05.12.2016 and payment of GIS amounting to ₹50,424/- was released to him on 05.11.2016. The prayer of the petitioner is for the grant of interest on these delayed payments as he was not able to use the said retiral benefits for a period of more than one year.

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

In the said reply, no valid justification has been given by the respondents as to why, the payment of the retiral benefits was delayed, except that the bills were sent to the treasury in time, but the payments were not released to the petitioner by the treasury. In the reply, the respondents themselves have admitted that there has been an unreasonable delay in making the payments, which were released in November/December, 2016 and the interest on the same will be paid to the petitioner. The relevant paragraph of the reply is as under: -

> "The petitioner applied for release of GPF on dated 30.5.2015. His case was sent to Head Office vide letter No.2909 dated 5.6.2015 (Annexure R-1). The Head Office sanctioned the case vide office letter bearing No.31598 dated 27.11.2015 (Annexure R-2.). In view of this, bill no.219 dated 2.12.2015 was submitted in the Treasury. Final payment of the GPF was made to the petitioner vide voucher No.105 dated 9.3.2016 amounting to

₹3,42,005/-. Hence, there was delay of only about two months which was not at all intentional.

The petitioner applied for gratuity on dated 29.4.2015, but certain documents i.e. 4 photographs and self declaration, were not attached with the application. After receipt of the same, pension/gratuity case was forwarded to the Head Office, vide office letter No.3667 dated 15.7.2015 (Annexure R-3) which forwarded the same to the office of Accountant General, Punjab. The Accountant General's office sanctioned the same on dated 6.11.2015 and sent it to the office of Chief Engineer. The Chief Engineer sanctioned the same vide his office order dated 22.12.2015 (Annexure R-4). The office of the answering respondent received the case from the office of Chief engineer on dated 2.1.2016. The bill of the same was sent to Treasury office vide bill no.248 dated 5.1.2016 (Annexure R-5), but the said bill was returned on dated 31.3.2016 as the release order from the State was not received. The bill was again sent to the Treasury office vide bill no.33 dated 24.5.2016 (Annexure R-6). Reminder was sent to Treasury office vide letter bearing No.3558 dated 7.9.2016 (Annexure R-7) and payment was made to the petitioner vide voucher No.14 dated 5.12.2016 amounting to Rs.10,00,000/-. As there was unreasonable delay in making payment of gratuity amount on the part of the State, payment of interest therefore as per government instructions dated 14.07.1995 has been ordered.

So far as the leave encashment amount is concerned, pension case had already been sent to the AG office, Punjab, Chandigarh alongwith the Service book. Same was received back on 02.01.2016. Hence, bill No.251 dated 8.1.2016 pertaining to leave encashment was sent to the Treasury office (Annexure R-8) but for want of release orders from the State, the bill was returned by the Treasury on 31.03.2016. Bill No.34 dated 24.05.2016 (Annexure R-9) was again sent to treasury office & the payment was released vide voucher No.113 dated 5.12.2016 amounting to ₹7,15,470/-.

With regard to payment of GIS amount, it is submitted that the GIS chart giving all details of deductions and the total

> accumulated amount, was received in the office of answering respondent in July 2016, the bill was sent to the Treasury office vide bill No.118 dated 8.9.2016 (Annexure R-10) while the payment was released vide voucher No.21 dated 5.11.2016 amounting to ₹50,424/-. As there was unreasonable delay in making payment of GIS amount on the part of the State, payment of interest therefore as per government instructions dated 14.07.1995 has been ordered."

The question of law, in respect of grant of interest on the delayed payment of retiral benefits, has already been settled by the Full Bench of this Court in **A.S. Randhawa's case (supra).** It has been held by the Full Bench that the amount for which an employee becomes entitled on account of retiral benefits is to be released within a reasonable time and reasonable time fixed by Full Bench of this Court is two months from the date of retirement and in case, retiral benefits have been retained by the respondents without any justifiable reason, the employee will be entitled for 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."

Even a Co-ordinate Bench of this Court in **J.S. Cheema Vs. State of Haryana, 2014(13) RCR (Civil) 355,** has held that an employee will be entitled for the interest on an amount, which has been retained and used 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."

In the present writ petition, it is clear from the fact recorded here-in-before that there was no valid justification with the respondents to withhold the benefits and it is further admitted that benefits were released to the petitioner much after an expiry of two months, which is a reasonable period fixed by the Full Bench. Further, the respondents have themselves stated in the reply that there is an unreasonable delay for the release of the pensionary benefits of the petitioner. Once, there is an admission by respondents themselves about the delay in releasing the pensionary benefits of the petitioner, which is also unreasonable, the interest on the delayed payments cannot be denied, rather respondents themselves have mentioned that the petitioner will be paid interest.

Learned counsel for the petitioner states that no interest has been paid to the petitioner on the delayed release of the pensionary benefits so far.

Claim of the petitioner is squarely covered by the above-said decisions for the grant of interest on the delayed release of the pensionary benefits, which were withheld by the respondents after his retirement.

In view of the above, the writ petition is allowed. The claim of the petitioner for the grant of interest is allowed and the petitioner is held entitled for the interest @ 9% per annum from the date the benefits became due till the payments were actually released to the petitioner by the respondents.

Let the calculation of the amount of interest be done by the respondents within a period of two months from the date of receipt of a certified copy of this order and the actual amount, so calculated, shall be released to the petitioner within one month thereafter.

It is made clear that in case, prior to the passing of this order, any interest has already been released to the petitioner, the same shall be adjusted in the total calculation, which has been done by the respondents under this order.

Present writ petition stands allowed in the above terms.

(HARSIMRAN SINGH SETHI)
November 27, 2019 **JUDGE**
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Whether reasoned/speaking? Yes
Whether reportable? Yes