

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

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**CWP No.15006 of 2019.
Date of Decision: 02.12.2019.**

Harkirat Singh

....Petitioner.

Versus

Principal Secretary-cum-Financial Commissioner Revenue,
Punjab and others

....Respondents.

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. P.S. Khurana, Advocate for the petitioner.

Mr. Rana Harjasdeep Singh, Deputy Advocate General, Punjab.

Harsimran Singh Sethi, J. (Oral)

The grievance raised by the petitioner in the present petition is that the petitioner has already been compulsorily retired w.e.f. 30.01.2018 but all the pensionary benefits, for which the petitioner is entitled after retirement, have not been released.

Learned counsel for the petitioner argues that the gratuity and commuted pension are yet to be released though there is no impediment in release of the same.

Learned counsel for the respondents very fairly states that only a vigilance complaint is pending against the petitioner and apart from the said complaint, there are no other proceedings pending against the petitioner.

On being asked, learned counsel for the respondents very fairly concedes that the vigilance complaint cannot be treated as a departmental

proceeding or criminal proceeding as envisaged under the Rules so as to entitle the department to withhold pensionary benefits. This shows that the withholding of the payment of commutation of pension and gratuity by the respondents is without any valid justification.

Under the Rules governing the service, the power to withhold the gratuity and leave encashment is only in case there are departmental proceedings or criminal proceedings pending against an employee. Once there is no charge-sheet pending against the petitioner at the time of retirement and there is no F.I.R. pending against the petitioner, wherein any challan has been submitted, it cannot be said that there are any proceedings pending against the petitioner, which would entitle the respondents to withhold the pensionary benefits. Vigilance enquiry is only a complaint which cannot be treated as departmental proceeding so as to withhold the pensionary benefits of the petitioner.

Keeping in view the above, the respondents are directed to release the commutation of pension as well as gratuity, which has been withheld by the respondents on account of complaint pending with the Vigilance Department, within a period of two months from the date of receipt of certified copy of this order hence petitioner is entitled to the grant of the interest on the delayed payments of pensionary benefits.

Learned counsel for the petitioner further argues that on the date when the petitioner was compulsorily retired, there were no proceedings pending, but still without any jurisdiction and only on the basis of the vigilance complaint, retiral benefits of the petitioner were delayed and withheld, hence petitioner is entitled for the grant of the interest on the delayed payments of pensionary benefits.

Learned counsel for the petitioner further argues that keeping in view the law laid down by Full Bench of this Court in **A.S. Randhawa versus State of Punjab and others, 1997(3) SCT 468**, an employee is entitled to the release of the pensionary benefits within a period of two months from the date of retirement and in case of failure to do so, an employee needs to be compensated by the grant of interest.

Learned counsel for the respondents has not been able to rebut the contention of learned counsel for the petitioner that there was impediment in release of pensionary benefits of the petitioner. Once there was no impediment, the delayed release of pensionary benefits is attributable to the respondents and the petitioner acquires a right to be compensated by way of interest in view of **A.S. Randhawa's** case (supra).

Therefore, the petitioner will also be entitled to interest at the rate of 9% per annum from the date the pensionary benefits became due till the same are released. Let the pensionary benefits alongwith interest be calculated within a period of two months from the date of receipt of this order and be paid to the petitioner within a period of one month thereafter.

(Harsimran Singh Sethi)
Judge

02.12.2019
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Whether speaking/ reasoned : Yes

Whether Reportable : No