IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-10165-2019
Date of decision: - 19.02.2020

Kuldeep Verma

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Vikas Arora, Advocate, for the petitioner.

Ms. Devki Anand Sullar, Asstt. Advocate General, Punjab.

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HARSIMRAN SINGH SETHI, J. (ORAL)

In the present writ petition, the challenge is to the order dated 01.03.2019 (Annexure P-7), by which, the claim of the petitioner for the grant of interest has been declined.

As per the averments made in the writ petition, petitioner attained the age of superannuation on 31.07.2016 and thereafter, he was granted the benefit of extension for a period of one year and ultimately, he retired from service on 31.07.2017. It has been further averred that there was no impediment in the release of the pensionary benefits of the petitioner, but the same were released after undue delay and therefore, petitioner is entitled for interest on the payments, which were released after undue delay. As per the petitioner, the payment of the amount of GPF amounting to ₹7,31,311/- was released on 03.02.2019; leave encashment amounting to ₹7,91,680/- was released on 20.03.2019 and gratuity amounting to ₹10,00,000/- was also released on the same date i.e. 20.03.2019, which is approximately 6-7 months after the retirement of the petitioner. The prayer of the petitioner is for the grant of interest on the delayed release of the pensionary benefits as the same have been delayed beyond the reasonable time in which the respondents were under obligation to release the same and delay is attributable to the respondents only.

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

In the reply, the respondents have stated that the administrative department had already verified the bills of the petitioner within a period of two months of the retirement, but the treasury is responsible to release the payment after submission of the bills, which released the bills after delay and therefore, the delay is attributable to the treasury, for which the administrative department cannot be held liable and hence, no interest is liable to be paid by the administrative department.

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

Under the rules, the payment of the pensionary benefits is to be released by the administrative department. The administrative department is to ensure that the payments have been released to the employees within a reasonable time. The reasonable time within which the pensionary benefits of an employee is to be released has been fixed by the Full Bench of this Court in **A.S. Randhawa** **Vs.** **State of Punjab and**

<u>others</u>, **1997(3) SCT 468**, as two months after the retirement, in case there is no impediment in the release of the same. Admittedly, the payments in the present case were delayed beyond the reasonable time i.e. two months fixed by the Full Bench of this Court **<u>A.S. Randhawa's</u> case (supra).** That being so, the petitioner becomes entitled for the grant of 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 from 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."

The burden for the delay is being shifted by the administrative department on the treasury. The treasury is only an agent of the administrative department as the treasury releases the payments on behalf of the administrative department. Even if delay is attributable to the treasury, still the administrative department will be liable for the payment of interest. This Court in **<u>Iqbal Maish (deceased) through LR's</u> Vs. <u>State of Punjab and others,</u> 2019(4) S.C.T. 504** held that the administrative department will be liable in case there is any delay, which is attributable to the treasury. The relevant paragraph of the said judgment is as under: -

> "It is admitted by the respondents that there is delay in the release of the actual benefit to the petitioner as far as the pensionary benefits are concerned. Petitioner retired from service on 30.04.2014 and the payments were made starting from 06.08.2014 and the last payment of gratuity was made on 30.03.2015. There is delay ranging from three and a half months to eleven months. The question to be decided is as to whether the administrative department will be liable, in case the amount in pursuance to the bills sent by the administrative department is not released by the treasury in a reasonable time. The duty to make payment of retiral benefits is not of the treasury but of the administrative department. Treasury is only an agent of administrative department to release the actual benefit for which they have been directed to by the administrative department. Treasury does not take decision independently or is the authority to grant pensionary benefits to the retired employee. Once the treasury office is only an agent of the administrative department, the administrative department will be liable, in case its agent (treasury) does not release the benefits as directed by the administrative department. Therefore, the ground which has been taken by the respondents that the treasury office was liable for the delay and, therefore, administrative department cannot be burdened with interest is not a valid argument and is liable to be rejected, and is rejected."

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 case, the amount, which was released to the petitioner after a delay, belonged to the petitioner as there was no impediment in the release of the same, therefore, as per **J.S. Cheema's case (supra),** the petitioner will be entitled for interest.

As the delay in the present case is more than two months, which is the reasonable time fixed by the Full Bench of this Court in **A.S. Randhawa's case (supra)**, the petitioner is held entitled for the grant of interest @ 9% per annum from the date the amount became due till the actual release of the same.

Let the computation of interest for which the petitioner becomes entitled for under this order be calculated by the respondents within a period of two months from the date of receipt of certified copy of this order and the interest amount, so calculated, be released to the petitioner within a period of one month thereafter.

Present writ petitions stands allowed in the above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

February 19, 2020
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Whether reasoned/speaking? Yes
Whether reportable? Yes