

**CWP-14511 of 2016 and
CWP-2972 of 2018**

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

**CWP-14511 of 2016
Date of decision: 21.01.2020**

Vinod Kumar

.... Petitioner

versus

State of Punjab and others

... Respondents

CWP-2972 of 2018

Jagsir Singh

.... Petitioner

versus

State of Punjab and others

... Respondents

CORAM:HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Raj Paul Kansal, Advocate
for the petitioner in CWP No.14511 of 2016.

Mr. Tarun Jhatta, Advocate
for the petitioner in CWP No.2972 of 2018.

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

Mr. Tarun Vir Singh Lehal, Advocate
for respondent No.4 in CWP-14511 of 2016.

HARSIMRAN SINGH SETHI, J.

By this common order, above mentioned two writ petitions are being decided as both the writ petitions involve the same question of law and similar facts. For the purpose of this order, facts are being taken from CWP No.14511 of 2016.

The grievance which is being raised by the petitioner in CWP No.14511 of 2016 is that though, the petitioner retired on 31.03.2015 after availing the benefit of two extensions in service, but his pensionary benefits were released by the respondents in March/June, 2016 and, therefore, the petitioner is entitled for interest on the said delayed payments.

In CWP No.2972 of 2018 also, the petitioner, who retired on 28.02.2017, was not given the full pensionary benefits, due to the pendency of charge sheet dated 07.03.2017 issued to the petitioner after his retirement.

Upon notice of motion, the respondents have filed reply and in the reply it has been stated that a charge sheet dated 18.02.2015 which was served upon the petitioner in CWP No.14511 of 2016 was pending at the time of his retirement and, therefore, the pensionary benefits of the petitioner were withheld and 90% of the provisional pension was released to him. Respondents have further stated that charge sheet dated 18.02.2015 was dropped by the competent authority on 15.12.2015 and, thereafter, the claim of the petitioner for the release of pensionary benefits was accepted and a sum of Rs.5,00,000/- was paid to him on 09.03.2016 and another sum of Rs.5,00,000/- was paid to him on 03.06.2016 towards the arrears of pension and gratuity. With regard to the claim of the petitioner for grant of interest, learned counsel for the respondents argues that once there were proceedings pending against the petitioner at the time of his retirement and the same remained pending till December, 2015, no interest is liable to be paid to the petitioner as after the finalisation of the proceedings on 15.12.2016, the payments were released to the petitioner within a reasonable time.

With regard to the claim of the petitioner in CWP No.2972 of 2018, respondents in their reply stated that though, the charge sheet issued to the

petitioner on 07.03.2017 has already been filed by the competent authority on 17.12.2018 but another charge sheet was issued on 11.01.2018 after the retirement of the petitioner, which has also been filed by the respondents on 15.05.2018 and after filing of the same, a sanction was accorded for the release of pensionary benefits to the petitioner on 30.05.2019.

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

In CWP No.14511 of 2016, it is not disputed by the parties that on the date when the petitioner retired from service on 31.03.2015, a charge sheet dated 18.02.2015 was pending against him and the said charge sheet was dropped by the respondents themselves on 15.12.2015. That being so, the pendency of the said charge sheet cannot cause prejudice to the petitioner as respondents failed to substantiate the allegations lodged against the petitioner. Once the allegations, which were levelled by the respondents were not proved and the charge sheet was dropped by the respondents themselves on 15.12.2015, pendency of the said charge sheet cannot cause prejudice to the petitioner. Keeping in view the fact that respondents were responsible for the delay in the release of pensionary benefits, the petitioner is entitled for interest.

A Co-ordinate Bench of this Court in **J.S. Cheema Vs. State of Haryana 2014 (13) RCR (Civil) 355** held that where an amount is retained and used by the respondents/employer, an employee will be entitled for interest on the same. Relevant paragraph of the 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 these writ petitions, the petitioners became entitled for release of their pensionary benefits upon their retirement, but the same were retained by the respondents due to the pendency of the respective charge sheets, which were dropped by the respondents themselves subsequently. Therefore, the petitioners are entitled for interest on the delayed release of the pensionary benefits by the respondents.

Keeping in view the above, the present writ petitions are allowed and the petitioners are held entitled for interest on the delayed release of pensionary benefits @ 9% per annum from the date the amount became due till the same was actually released to them.

Let computation of the interest, for which the petitioners are entitled as per this order be carried out within a period of two months from the date of receipt of copy of this order and the payment so calculated be released to the petitioners within a period of one month thereafter.

(HARSIMRAN SINGH SETHI)
JUDGE

21.01.2020
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| 1. | Whether speaking/non-speaking? | Yes/No |
| 2. | Whether reportable? | Yes/No |