

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-18230 of 2015

Date of decision: 22.01.2020

Karnail Singh

.... Petitioner

versus

State of Punjab and others

... Respondents

CORAM:HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gurmanpreet Singh, Advocate for
Mr. R.S. Manhas, Advocate
for the petitioner.

Mr. Mehardeep Singh, Addl.AG, Punjab.

HARSIMRAN SINGH SETHI, J.

As per the averments made in the writ petition, the petitioner was initially appointed on work charge basis on 01.04.1976 and his services were regularised on 05.01.1980. The petitioner continued working with the respondents on the post of Lineman till he attained the age of superannuation and retired on 31.03.2014. Grievance of the petitioner is that after his retirement, while computing his pensionary benefits, the respondents have not taken into consideration, the service which he had rendered on work charge basis from 01.04.1976 to 05.01.1980 as qualifying service, which is contrary to the settled principle of law settled by Full Bench of this Court in **Kesar Chand Vs. State of Punjab 1998 (2) PLR 223.**

Further grievance of the petitioner is that while he was in service, the date of annual increment has been changed by the respondents from

January to April, without his consent and, therefore, the petitioner should be granted increment in January of each year instead of April and his basic pay should be revised and consequential pensionary benefits should be granted.

Last prayer of the petitioner is that though, after retirement, he was entitled for the release of his pensionary benefits, such as leave encashment and GPF within a reasonable time but, the same were released only in October/November, 2014, hence, the petitioner should be compensated for the delay by way of grant of interest.

Upon notice of motion, the respondents have filed reply, in which it has been stated that as per the provisions relating to the grant of pension, an employee is entitled for the benefit of maximum 33 years of service and not beyond that and, therefore, even if a qualifying service of the petitioner is counted from the date of his regularisation from 05.01.1980, the petitioner had 34 years of service in his credit, therefore, work charge service of the petitioner could not have been taken into consideration while computing his pensionary benefits.

With regard to the claim of the petitioner that the date of grant of annual income was changed, it is submitted by the respondents that petitioner was promoted as Lineman on 01.04.2006 and after the said promotion, the petitioner was required to give an option that he wants to continue with the grant of annual increment from January, the option which he did not exercise and therefore, he was granted the benefit of increment from April onwards and the same continued from year 2006 onwards till his retirement and the petitioner cannot raise this grievance after his retirement.

With regard to the claim of the petitioner for grant of interest on the delayed release of payment of leave encashment and GPF, the respondents

admitted that because of some objections raised by the Head office, the payment of leave encashment and GPF was delayed and was released to the petitioner in November, 2014.

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

It is not disputed that under the Rules governing the grant of pension, an employee is entitled for maximum qualifying service of 33 years, even if, an employee rendered more than 33 years of service. In the case of the petitioner, he had 34 years of regular service in his credit upto the date of his retirement and out of 34 years, the petitioner has been given the benefit of 33 years of service while computing his pensionary benefits, which benefit has already been extended to him. Once the petitioner has already been given the benefit of maximum length of service permissible under the Rules, no grievance can be raised by him that his work charge service has not been taken into account for the grant of pensionary benefits.

With regard to the change of grant of annual increment to the petitioner in April instead of January, once the petitioner was promoted as Lineman on 01.04.2006 and he did not exercise the option at the relevant time for continuing the grant of increment from the month of January only, the date of increment was changed upon his promotion in April 2006 and the petitioner continued to get the same from April starting from year 2006 till he retired in March, 2014. Once the petitioner did not exercise the option, which he had at the time, when he was promoted in April 2006, no grievance can be raised by him after his retirement.

With regard to the claim of the petitioner for grant of interest on the delayed payment of leave encashment and GPF, he has genuine claim. It has

been admitted by the respondents that the petitioner retired on 31.03.2014, whereas, the payment of leave encashment and GPF was released to him in November, 2014

A Full Bench of this Court in *A.S. Randhawa vs. State of Punjab* *1997(3) S.C.T. 468* has held that an employee will be entitled for release of his pensionary benefits within a reasonable time after his retirement and the reasonable time as per the Full Bench is two months and in case of failure to do so, an employee will be entitled for the grant of interest. Relevant paragraph of the 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.”

In the present writ petition, there is a delay in release of leave encashment and GPF by the respondents to the petitioner beyond the period of two months, therefore, the case of the petitioner is squarely covered by the judgement in *A.S. Randhawa's* case (supra), hence, he is entitled for the grant of interest.

Keeping in view the above, the present writ petition is allowed. The petitioner is held entitled for interest on the delayed release of payment of leave encashment and GPF @ 9% per annum from the date it became

due till the same was actually released to him.

Let computation of the interest, for which the petitioner is 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 petitioner within a period of one month thereafter.

22.01.2020
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(HARSIMRAN SINGH SETHI)
JUDGE

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