225 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CWP No.12922 of 2018 (O&M)
Date of decision : February 04, 2020

Leela Dhar .... Petitioner

Versus

State of Punjab and others .... Respondents

2. CWP No.11288 of 2018 (O&M)

Baldev Singh .... Petitioner

Versus

State of Punjab and others .... Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Ashwani Bakshi, Advocate for the petitioner in CWP No.12922 of 2018.

Mr. Padamkant Dwivedi, Advocate for the petitioner in CWP No.11288 of 2018.

Mr. Navdeep Chhabra, DAG, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

By this common order, both the writ petitions details of which have been given in the heading of this order, are being decided as both the writ petitions involve the same question of law and similar facts. For the purpose of this order, the facts are being taken from CWP No.12922 of 2018.

The claim of the petitioner is for the grant of interest on the delayed release of the pensionary benefits.

Certain relevant facts are that the petitioner joined the respondent-department as a Beldar on work-charge basis on 01.10.1980. His services were regularized as Beldar in November, 1985 and he retired from the said post on 28.02.2017. It is the case of the petitioner that there was no impediment in the release of pensionary benefits of the petitioner but still the same were released to him from November, 2017 onwards and therefore, for the delay in the release of the pensionary benefits, the petitioner is entitled for interest.

Upon notice of motion, respondents have filed the reply. In the reply, respondents have stated that though, the petitioner retired from service on attaining the age of superannuation on 28.02.2017 and the bills for the release of the pensionary benefits were approved within a reasonable time after the retirement but the same were only paid by the Treasury in November/December, 2017 and therefore, no interest can be claimed as the delay was merely procedural and is attributable to the Treasury and not to the Administrative Department.

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

It is not disputed by the learned counsel for the respondents that at the time of the retirement of the petitioner, there were no proceedings pending against the petitioner, which would entitle the respondents to withhold the pensionary benefits. Further, the respondents have admitted that there is a delay in the release of the pensionary benefits but the said delay has been attributed by the Administrative Department to the Treasury.

Be that as it may, the duty to release of pensionary benefits is of the Administrative Department. The Treasury is only an agent of the Administrative Department to release the pension and other benefits on behalf of the Administrative Department. Any action or in action on part of the Treasury being the agent of the Administrative Department, will bind the Administrative Department as well. Administrative Department cannot escape its liability by merely putting the burden on the Treasury. Therefore, it is the Administrative Department, who will be liable for the delay, which is being attributed to the Treasury.

As per the settled principle of law as settled by the Full Bench of this Court in case of ***"A.S. Randhawa Vs. State of Punjab and others,1997(3) SCT 468"***, it has been held that the amount for which an employee becomes entitled as retiral benefits is to be released within a reasonable time after retirement and reasonable time fixed by the Full Bench of this Court is two months from the date of retirement and in case, retiral benefits have been retained by the respondents beyond the said period of two months and that too 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 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 case, the respondents have admitted that there was no impediment in the release of the pensionary benefits of the petitioner. Further, the respondents have admitted that there is a delay, which has been termed as 'procedural delay'. Be that as it may, once, there is unreasonable delay in the release of the pensionary benefits of the petitioner, the petitioner becomes entitled for the grant of interest, keeping in view the judgment in ***A.S. Randhawa' case*** (*supra*).

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.*"

The claim of the petitioner for grant of interest in the present writ petition is squarely covered by the decision of the Full Bench of this Court in case of ***A.S. Randhawa***(*supra*) and by the case of ***J.S. Cheema*** (*supra*). Therefore, the petitioner is held entitled for the grant of interest on the delayed release of pensionary benefits.

Both the aforesaid writ petitions are allowed and the petitioners in both the writ petition are held entitled for the grant of interest @ 9% per annum from the date the amount became due till the release of the same.

Let the interest 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 amount so calculated will be released to the petitioner within a period of one month thereafter.

(HARSIMRAN SINGH SETHI)
JUDGE

February 04, 2020
sarita

Whether speaking / reasoned Yes / No
Whether Reportable: Yes / No