IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-14215 of 2018
Date of decision: 14.02.2020

Tarsem Lal Bhagat .... Petitioner

versus

State of Punjab and another .... Respondents

CORAM:HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. B.S. Patwalia, Advocate for the petitioner.

Mr. Navdeep Chhabra, DAG, Punjab.

HARSIMRAN SINGH SETHI, J.

In the present writ petition, the claim of the petitioner is that the petitioner had retired on 31.10.2017 but, his pensionary benefits, for which he became entitled after retirement were not released to him within a reasonable time after the retirement and, therefore, as per the settled principle of law settled by Full Bench of this Court in **A.S. Randhawa vs. State of Punjab 1997(3) S.C.T. 468,** the petitioner is entitled for grant of interest on the delayed release of pensionary benefits.

As per the facts mentioned in the writ petition, the petitioner attained the age of superannuation on 31.10.2017. Before the said date, the petitioner was granted extension for a period of one year from 1.11.2015 till 31.10.2016. Before the expiry of extension period, a show cause notice was issued to the petitioner on 14.10.2016, due to which, the respondents denied the petitioner second extension from 01.11.2016 till 31.10.2017. Petitioner challenged the said denial of extension before this Court by filing CWP No.726 of 2017. This Court vide interim order dated 06.02.2017 allowed the petitioner to continue in service and petitioner continued working under the said interim order till he retired from service on 31.10.2017. The claim of the petitioner is that the respondents were liable to release the pensionary benefits of the petitioner within a reasonable time after 31.10.2017 but, as the same were released beyond the reasonable time, he is entitled for grant of interest on the said payments.

Upon notice of motion, the respondents have filed reply in which it has been submitted that initially a show cause notice was served upon the petitioner on 14.10.2016 and later on, a charge sheet was served upon him on 24.03.2017 under Rule-8 of the Punjab Civil Services (Punishment and Appeal) Rules, 1970 and as on the date of retirement of the petitioner, the said charge sheet was pending, the respondents were well within their jurisdiction to withhold the pensionary benefits. It has been further mentioned that the petitioner was imposed a punishment of 5% cut in pension for a period of two years in respect of the charge sheet dated 24.3.2017 vide order dated 30.04.2018. After the disciplinary proceeding came to an end, the retiral benefits, for which the petitioner was entitled, were released to him. Details of the benefits released by the respondents has been given in para-4 of the reply which are as under:-

Sr. No	***Payment detail***	***Amount (in Rs. Only)***	***Sanction vide orders***	***Bill NO. and date***	***Date of Payment***
1	GIS	65,376/-	- - -	18 15.05.2018	25.05.2018

Sr. No	*Payment detail*	*Amount (in Rs. Only)*	*Sanction vide orders*	*Bill NO. and date*	*Date of Payment*
2	Leave encashment	7,57,430/-	1679-82 29.08.2018	76 4.9.2018	08/01/19
3	D.C.R.G.	10,00,000/-	3398 20.09.2018	- - -	11/12/18
4	Pension(per month)	17,780/-	3400 20.09.2018	- - -	11/12/18

Learned counsel for the petitioner submits that keeping in view the settled principle of law settled by the Full Bench of this Court in LPA 113 of 2012 titled as **Punjab State Civil Supplies Corporation Limited and others vs. Pyare Lal,** decided on 11.08.2014, wherein it has been held that only the gratuity and leave encashment of an employee can be withheld, whereas the respondents had withheld pension as well as amount of GIS, therefore, the act of the respondents in withholding the pension and GIS amount was beyond their jurisdiction and petitioner is entitled for interest on those payments from the date he became entitled after his retirement.

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

The question raised in the present writ petition is that whether in the facts and circumstances of this case, the petitioner is entitled for interest on the delayed release of pensionary benefits or not.

It is an admitted case that on the date of retirement of the petitioner, a charge sheet dated 24.03.2017 was pending against him and as the disciplinary proceedings were pending against him, respondents were well within their jurisdiction to withhold certain benefits keeping in view the provisions of Punjab Civil Services Rules. It is not disputed by the learned counsel for the respondents that under the rules governing the service only gratuity and leave encashment can be withheld. It is clear that withholding of pension or GIS amount by the respondents due to pendency of charge sheet dated 24.03.2017 was beyond their jurisdiction.

Further a Full Bench of this Court in LPA 113 of 2012 titled as **Punjab State Civil Supplies Corporation Limited and others vs. Pyare Lal,** decided on 11.08.2014, has held that even if proceeding are pending against an employee on the date of retirement, he is entitled for the release of 100% provisional pension and other retiral benefits except gratuity and leave encashment. That being so, withholding of pension and GIS amount by the respondents after the retirement of the petitioner on 31.10.2017 was contrary to the settled principle of law and therefore, the petitioner is entitled for interest on delayed payments of GIS amount and arrears of pension, which were paid to him on 25.5.2018 and 11.12.2018 respectively from the date, the same became due to him.

With regard to the amount of leave encashment and gratuity, the same were rightly withheld by the respondents during the pendency of the charge sheet dated 24.3.2017. The said charge sheet was finalised by the respondents while imposing punishment of 5% cut in pension on 30.04.2018. After the said date, there was no impediment in the release of the leave encashment and gratuity of the petitioner as well. As per the respondents DCRG was released on 11.12.2018 and the leave encashment was released on 8.1.2019. Once the impediment in the release of pensionary benefits was over on 30.4.2018, it was incumbent upon the respondents to release the pensionary benefits of the petitioner within a reasonable time.

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 fixed by the Full Bench is two months. 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 front 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, time taken by the respondents to release the leave encashment and gratuity was beyond the reasonable time as fixed by the Full Bench of this Court in **A.S. Randhawa's case (supra).** In the present case, **A.S. Randhawa's case (supra)** is to be read for releasing the pensionary benefits after the impediment in the release of the pensionary benefits no longer exists. In case of the petitioner, there existed no impediment after 30.04.2018, hence, it was incumbent upon the respondents to release the pensionary benefits of the petitioner within a reasonable time thereafter. As the same was not done, the petitioner is entitled for grant of interest on the delayed release of payments of DCRG and leave encashment from 01.07.2018 till the same were actually released to him.

Keeping in view the above, the claim of the petitioner is allowed. Petitioner is held entitled for interest @ 9% per annum on the amount of arrears of pension and GIS from the date it became due as well as on the delayed payments of gratuity and leave encashment from 01.07.2018 onwards till the same were actually released in his favour.

Let computation of the interest, for which the petitioner is entitled under 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.

The petition stands allowed in the above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

14.02.2020
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1. Whether speaking/non-speaking? Yes/No
2. Whether reportable? Yes/No