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

215 CWP-20002-2016
Date of decision : 23rd January, 2020

KEHAR SINGH

......Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Onkar Rai, Advocate
for the petitioner.

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

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<u>HARSIMRAN SINGH SETHI , J (ORAL)</u>

In the present writ petition the petitioner is seeking interest on the delayed payments of retrial benefits.

As per the averments in the writ petition, the petitioner was appointed as a Conductor with the respondent-Department in the year 1975, and retired on 30.04.2015 after availing two years extension in service. In paragraph-9 of the writ petition, petitioner has stated that though he retired on 30.04.2015, but the pensionary benefits were released after an undue delay and therefore, the petitioner is entitled for interest. It is also stated in the petition that the benefits of General Insurance Scheme was yet to be paid by the respondents even upto the date of filing of the present writ petition in the year 2016.

Upon notice of motion, the respondents have filed their reply and as per their reply, the respondents have admitted the fact that the payment of pensionary benefits were delayed due to the promotion of the petitioner during the extension period, due to which certain clearances were required from the Department and the certificate, which was needed for finalizing the pension case of the petitioner, was received on 18.06.2015. The ground for delay in the release of pensionary benefits of the petitioner was procedural and, therefore, no interest is liable to be paid to the petitioner.

The relevant paragraph 2 of the short reply is as under: -

> *"2. That on dated the petitioner has retired on dated 30.04.2015 after the extension of two year service as per the Rules. It is submitted that during the extension period, on dated 20.04.2015 the petitioner has promoted as station supervisor. After the promotion he has retired as a station supervisor on dated 30.04.2015. It is pertinent to mention here that after the promotion of the petitioner the answering respondent department had required to put the pension case of the petitioner as a station supervisor. It is further submitted that the answering respondent department was to required to get the certificate under rule 4.4 (C) (1) Part 1 Vol-1 of Punjab Civil Service Rules from the administrative department i.e. respondent no.2. The respondent no 3 put the case for obtaining the certificate and on dated 19.05.2015 the respondent no.3 sent the letter to the to the respondent no.2 for issuing the certificate under the aforementioned rules which was received on dated 18.06.2015. After obtaining the certificate under the aforementioned rules the respondent no. 3 fixed the salary of the petitioner as per his promotion and prepared the pension case and then released the all pension*

benefits. Therefore the cause of delay payment was due to the promotion of the petitioner and he is not entitled for the interest on payments."

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

From the facts, which have been stated in the writ petition, which have not been denied by the respondents in their reply, it is clear that the retiral benefits were released to the petitioner after a delay of 06 to 11 months. The delay in release of pensionary benefits has also been admitted by the respondents in their reply but the claim of the petitioner for the grant of interest is being contested on the ground that the said delay is merely procedural and therefore petitioner is not entitled for any interest on the said retrial benefits.

The question of law in respect of grant of interest on the delayed payment of retiral benefits has already been settled by the Full Bench of this Court in **A.S. Randhawa Vs. State of Punjab and others, 1997(3) SCT 468,** wherein, it has been held that the amount for which an employee becomes entitled on account of retiral benefits is to be released within a reasonable time after retirement of the employee and reasonable time fixed by the Full Bench in **A.S. Randhawa's case (supra)** is two months from the date of retirement in case there is no justifiable impediment and in case, retiral benefits have been retained by the respondents 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 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."*

Even 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 due to the petitioner after his retirement, has been retained beyond two months of the retirement and used by the department, therefore, petitioner will be entitled for interest on this score also. Therefore, the case of the petitioner is squarely covered by the above-said judgments for the grant of interest as no impediment in the release of the benefits has been brought to the notice of this Court.

In view of the above, the writ petition is allowed. The claim of the petitioner for the grant of interest is allowed and the petitioner is held entitled for the interest @ 9% per annum from the date the amount became due till the payment was actually released to the petitioner by the respondents.

Let the calculation of the amount of interest be done by the respondents within a period of two months from the date of receipt of a certified copy of this order and the actual amount, so calculated, shall be released to the petitioner within one month thereafter.

Present writ petition stands disposed of in the above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

23.01.2020
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No