IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. CWP-17105-2018

Sukhvir Kaur and others ....Petitioners

Versus

Punjabi University and another .....Respondents

2. CWP-22013-2019

Manjit Singh Sood and others ....Petitioners

Versus

Punjabi University, Patiala and another .....Respondents

3. CWP-13338-2019

Mohinder Singh and others ....Petitioners

Versus

Punjabi University, Patiala and another .....Respondents

Date of decision: - 25.02.2020

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Harvinder Singh Mann, Advocate
for the petitioners-17105-2018.

Mr. Hardeep Singh, Advocate
for the petitioners in CWP-22013-2019.

Mr. Jagtar Singh Sidhu, Advocate
for the petitioners in CWP-13338-2019.

Mr. Ajaivir Singh, Advocate, for the respondents.

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

By this order, above-mentioned three Civil Writ Petitions are being disposed of in the light of common question of law and similar facts involved. For the sake of convenience, the facts are being extracted from CWP-17105-2018 titled as '<u>Sukhvir Kaur and others</u> Vs. <u>Punjabi University and another</u>'.

In the present writ petition, the claim of the petitioners is that though they have retired on various dates starting from 31.03.2015 to 30.04.2016 while working on Class III and Class IV posts, but their pensionary benefits have not been released by the respondents so far and that too without any valid justification. The prayer of the petitioners is for issuance a direction to the respondents to release their pensionary benefits alongwith interest.

Upon notice of motion, respondents have filed an affidavit.

In the affidavit, respondents have stated that the pensionary benefits of the petitioner have already been released during the pendency of the writ petition and therefore, the claim of the petitioners already stands satisfied and the present writ petition has been rendered infructuous.

Learned counsel for the petitioners does not dispute the fact that during the pendency of the writ petition, the petitioners have already been released the pensionary benefits for which they were entitled after their retirement. Learned counsel for the petitioners further states that the present writ petition has not been rendered infructuous because the petitioners have also raised a claim for the grant of interest on account of delayed release of the pensionary benefits and as the interest has not been granted by the respondents, claim of the petitioners for the grant of interest still survives in the present writ petition.

Learned counsel for the respondents raises an argument that the claim of the interest by the petitioners is not maintainable in the present case as the delay in the release of the pensionary benefits was on account of paucity of funds, therefore, the claim of the petitioners for the grant of interest is liable to be rejected.

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

It is not disputed that retiral benefits of the petitioners were released after an undue and unexplained delay by the respondents. Further, learned counsel for the respondents have not placed on record any fact regarding any impediment in the release of the pensionary benefits of the petitioners after their retirement. That being so, it can be very well assumed that there was no impediment in the release of the pensionary benefits of the petitioners at the time of their retirement.

Learned counsel for the respondents has raised a plea that there was paucity of funds with the respondent-University, due to which, the pensionary benefits of the petitioners could not be released.

Said argument cannot be accepted keeping in view the law laid down by this Court in **Ram Karan** Vs. **Managing Director, Pepsu Road Transport Corporation and another**, **2005(4) S.C.T. 438**, wherein, it has already been held that the weak financial position is no valid ground to withhold the payments in respect of the retiral benefits. The relevant paragraph of the said judgment is as under: -

> “8. On careful consideration of the rival submissions and the facts of the case, we do not find ourselves in agreement with the arguments advanced by the learned Counsel for the respondent-Corporation. In a welfare State it is the duty of the State to ensure the 'right to live' of every individual. The term 'life' as mentioned in Article 21 of the Constitution of India includes livelihood and so many facts thereof. It means that something more than mere existence and inhabitation against the proposition of life and rather it extends to all the facilities by which life is enjoyed. In case a pensioner is not even paid the genuine dues like the medical reimbursement, he is not expected to enjoy the life nor will he feel secure. The Constitution of India contains a large number of rights which guarantee human rights. It recognises the right of every citizen to an adequate standard of life for himself and his family members, which also includes the improvement of living conditions besides providing adequate food, clothing and housing. A welfare State has to take all appropriate steps to ensure the realisation of these rights. The Apex Court in the case of **Chameli Singh v. State of U.P. 1996(2) SCC 549** has held as under:-
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> > "In any organised society right to live as a human being is not ensured by meeting only the animal needs of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions which inhibit his growth. All human rights are designated to achieve this object. Right to live guaranteed in any civilised society implies to right to food, water, decent environment, education,medial care and shelter. These are basic human rights known to any civilised society.
> > xx xx xx xx Right to shelter when used as an essential requisite to the right to live should be deemed to have been guaranteed as a fundamental right. As is enjoined in the Directive Principles, the State should be deemed to be under an obligation to secure it

for its citizens, of course subject to its economic budgeting. In a democratic society as a member of the organised civic community one should have permanent shelter so as to physically, mentally and intellectually equip oneself to improve his excellence as a useful citizen as enjoined in the Fundamental Duties and to be a useful citizen and equal participant in democracy. The ultimate object of making a man equipped with a right to dignity of person and equality of status is to enable him to develop himself into a cultured being."

9. A right to carry on business is reciprocated with a duty and constitutional obligations under the Constitution. Financial stringency may not be a ground for not issuing requisite directions when a question of violation of fundamental rights arises. The Apex Court has also highlighted this aspect in a number of decisions, namely, Municipal Council, V. Ratlam, (1980) 4 S.C.C. 164, **<u>B.L Wadhera v. Union of India</u> AIR 1996 SC 2969, <u>All India Imam Organisation and Ors. v. Union of India and Ors.,</u> 1993(3) SCT 531 (SC); 1993(3) SCC 584, <u>Kapila Hingorani v. State of Bihar,</u> 2003 (3) R.S.J. 42**. As far as back as in the year 1993, the Apex Court in All India Organisation's case (supra) observed as under:-

"6... Much was argued on behalf of the Union and the Wakf Boards that their financial position was not such that they can meet the obligations of paying the Imams as they arc being paid in the State of Punjab. It was also argued that the number of mosques is so large that it would entail heavy expenditure which the Boards of different States would not be able to bear. We do not find any correlation between the two. Financial difficulties of the institution cannot be above the fundamental right of a citizen. If the Boards have been entrusted with the responsibility of supervising and administering the Wakf then it is their duty to harness resources to pay those persons who perform the most important duty namely of leading community prayer in a mosque the very purpose for which it is created.

We are surprised at the insensitive attitude adopted by the respondent-Corporation in respect of its own employees/pensioners. An employer is not only to look forward

> to the economic growth but also to look after the welfare of its employees including health, social security and other human needs. It is the obligation of the State or its functionaries to work within the scope of their authority to combat and overcome the miseries of its employees. The Courts in such a situation are obliged to issue necessary directions to mitigate the extreme hardship of the employees involving violation of their human rights by the State or its functionaries like the respondent-Corporation, which are fully controlled by it."

A Division Bench while deciding the above-said case categorically held that the plea of weak financial position is no valid ground to withhold the pensionary benefits, therefore, the ground which has been taken by the respondents to withhold the pensionary benefits is contrary to the law laid down by the Division Bench and cannot be taken into consideration for denying the benefit of interest on the delayed payments.

As far as the claim of the petitioners for the grant of interest is concerned, the same is to be considered in view the settled principle of law 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 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 for more than 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, it is admitted by the learned counsel for the respondents that the delay is much beyond reasonable time of two months and therefore, the claim of the petitioners for the grant of interest is squarely covered by the judgment in A.S. Randhawa (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."

In the present case, the amount, which was released to the petitioners after a delay, belonged to them as there was no impediment in the release of the same, therefore, as per **<u>J.S. Cheema</u> (supra),** the petitioners will be entitled for interest.

In view of the above, the present writ petitions are allowed. The claim of the petitioners for the grant of interest is allowed and they are held entitled for the interest @ 9% per annum from the date the benefits became due till the payments were actually released to the petitioners by the respondents

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

Present writ petitions stands allowed in the above terms.

(HARSIMRAN SINGH SETHI)
February 25, 2020 **JUDGE**
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Whether reasoned/speaking? Yes
Whether reportable? Yes