

**210 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.24822 of 2016 (O&M)
Date of decision : January 29, 2020**

Mohinder Pal Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Amandeep Singh Manaise, Advocate for the petitioner.

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

HARSIMRAN SINGH SETHI J. (ORAL)

In the present writ petition, the grievance which is raised by the petitioner is that the interest on the delayed release of the pensionary benefits has not been paid to the petitioner despite his entitlement for the same.

As per averments made in the writ petition, the petitioner was appointed as Panchayat Secretary in the year 1974 and thereafter promoted as a Panchayat Officer on 18.11.2004. On 26.06.2012, the petitioner was suspended and thereafter a charge-sheet was served upon him on 05.07.2012 on the allegations of improper work done in the village, which was under the charge of the petitioner at the relevant time. After the reply filed to the charge-sheet by the petitioner was found unsatisfactory, a regular enquiry was initiated against him. During the regular enquiry, the order of suspension was revoked on 09.05.2013 and the petitioner was reinstated in service without prejudice to the pending inquiry proceedings. The petitioner continued working with the respondents till he attained the age of superannuation and retired from service on 31.08.2013. As the charge-sheet dated 05.07.2012 was pending against the petitioner, some of the pensionary

benefits, for which the petitioner was entitled after his retirement, were withheld.

As the charge-sheet was not taken to a logical end by the respondents, the petitioner filed CWP No.3862 of 2016 wherein a prayer was made to release the pensionary benefits along with interest after deciding the charge-sheet expeditiously. The said writ petition was disposed of by this Court on 18.03.2016 wherein a direction was issued by this Court to the Director, Rural Development and Panchayats Department, Punjab, to finalize the departmental proceedings against the petitioner within a period of two months and thereafter pass an appropriate order with regard to the release of pensionary benefits of the petitioner.

In pursuance to the the order passed by this Court, the charge-sheet dated 05.07.2012 pending against the petitioner was dropped, vide order dated 20.09.2016 and after the passing of the said order, pensionary benefits of the petitioner were released to him.

As the pensionary benefits of the petitioner were delayed, the petitioner claimed interest on the delayed release of the pensionary benefits and as the claim of the petitioner was not accepted, the petitioner has filed the present writ petition claiming interest on the delayed release of the pensionary benefits.

The details of release of pensionary benefits to petitioner is as under:

S.N.	Item	Amount (Rs.)	Date when due	Date of payment	Delay caused
1	Leave Encashment	4,00,860	30.8.13	30.11.15	27 months

S.N.	Item	Amount (Rs.)	Date when due	Date of payment	Delay caused
2	Allowance for suspension period	1,69,472	30.6.13	30.11.15	29 months
3	Gratuity	7,24,185	30.8.13	20.10.16	38 months
4	Pay for eight months of suspension period	2,15,218	30.6.13	20.10.16	41 months
5	Arrears of Pension (37 months)	8,77,464	Every month w.e.f. 30.09.13	01.10.16	
6	Half salary w.e.f. 26.06.2012 to Oct. 2012 and 70% balance arrears of revised pay scale w.e.f 1.1.2006	1,60,283/-	30.06.13	08.11.16	41 months

Upon notice of motion, respondents have filed reply. In the reply, the respondents have stated that as there was a charge-sheet dated 05.07.2012 pending against the petitioner, withholding of the pensionary benefits was within their jurisdiction and after the said charge-sheet was dropped, the pensionary benefits were released to the petitioner and therefore, as the respondents had a justifiable reason to withhold the pensionary benefits i.e. pendency of the charge-sheet, no interest can be granted to the petitioner on account of the delayed release of pensionary benefits.

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

The facts, which have been stated hereinbefore are not in dispute. A charge-sheet dated 05.07.2012 was pending against the petitioner on the date when he attained the age of superannuation on 31.08.2013. The respondents were within their jurisdiction to withhold the benefits of leave encashment and gratuity, keeping in view the provisions of Punjab Civil Services Rules.

In the present case, the petitioner has been exonerated of the charges, which were levelled against him by the respondents in the charge-sheet dated 05.07.2012. That being so, the pendency of the charge-sheet cannot cause prejudice to the petitioner as the respondents were at fault in issuing the charge-sheet on the allegations, which they failed to substantiate. Once, the petitioner was not at fault and the petitioner had suffered prejudice due to the delay in the release of his pensionary benefits, he is entitled for being compensated for the said delay, as delay is totally attributable to the respondents.

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 department without any valid justification. The relevant para of the said judgment 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 for which the petitioner was entitled for was retained and used by the respondents and therefore, the petitioner is entitled for interest on the delayed release of pensionary benefits.

Further, a bare perusal of the chart which has been reproduced in the preceding paragraph of the order shows that the delay in the release of the pensionary benefits is more than three years after the retirement. Once, it is already held that the delay is not attributable to the petitioner, the petitioner cannot be caused prejudice. Rather, in the present case, petitioner has been forced to approach this Court more than once to claim the pensionary benefits, firstly for a direction to the respondents to decide the proceedings pending against him expeditiously and thereafter to get the said order implemented by filing a contempt petition. The present petition is the third proceeding which the petitioner has initiated for his legitimate claim therefore, keeping in view the totality of the facts and circumstances, especially when the petitioner is not at fault in any manner for the delayed release of pensionary benefits, the petitioner is held entitled for the interest @ 9% per annum from the date of retirement of the petitioner till the the date the amount was released to him. The petitioner will be entitled for interest on all the amounts, detail of which have been recorded in the preceding paragraph of the judgment by way of a chart.

Let the computation of interest under this order be carried out 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.

The present writ petition is allowed in the abovenoted terms.

(HARSIMRAN SINGH SETHI)
JUDGE

January 29, 2020

Whether speaking / reasoned	Yes
Whether Reportable:	Yes